

**A Guide to
Highway Use
Tax and Other
New York
State Taxes for
Carriers**

About this publication

This publication is a guide to the New York State highway use tax, and includes information regarding vehicles subject to tax, registration requirements, exemptions, record keeping, returns, and special provisions related to automotive fuel carriers. It also includes information regarding the transportation of alcoholic beverages, cigarettes and tobacco products, and information concerning other taxes that may affect your motor carrier business, including the fuel use tax, corporation franchise tax, personal income tax, and sales and use taxes.

This publication reflects the provisions of the highway use tax as amended effective July 1, 2007. For additional information regarding grandfather and transition provisions, see TSB-M-07(3)M, *Amendments to the Tax Law Regarding Certificates of Registration for Highway Use Tax Effective July 1, 2007*.

The information presented in this publication is current as of this publication's print date and is intended as a guide only. If there is any disagreement between the information contained in this publication and the Tax Law or regulations, the Tax Law or regulations will govern.

For a list of forms, publications, and Web sites on taxes that may apply to carriers, see Publication 538-F, *New York State Tax Forms and Publications for Carriers*.

You may obtain and manage various operating credentials and registrations over the Internet, including highway use tax registrations, by accessing *One Stop Credentialing and Registration - OSCAR* - at (www.oscar.state.ny.us).

To download publications, forms and instructions, and to obtain information updates on New York State tax matters, visit our Web site at (www.nystax.gov). See *Need Help?* on the back cover of this publication for specific phone numbers for the Tax Department's contact center.

NOTE: A Publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information contained in a publication. Publications are updated regularly and are accurate on the date issued.

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Highway use tax at a glance...

What is the highway use tax?

The highway use tax (HUT) is imposed on motor carriers operating certain motor vehicles on New York State public highways (excluding toll-paid portions of the New York State Thruway). The tax is based on mileage traveled on New York State public highways and is computed at a rate determined by the weight of the motor vehicle and the method that you choose to report the tax.

In general, the *gross weight method* is used to compute your tax and determine your registration requirements. However, you may elect to use the *unloaded weight method* to compute your tax and determine your registration requirements. You must use the same method for all your motor vehicles.

What vehicles are subject to the highway use tax?

The following motor vehicles are subject to tax depending on whether the gross weight method or unloaded weight method is used:

Gross weight method

Any truck, tractor, or other self-propelled vehicle with a gross weight of more than 18,000 pounds.

Gross weight means the unloaded weight of the truck, tractor, or other self-propelled vehicle plus the unloaded weight of the heaviest trailer, semitrailer, dolly, or other device to be drawn by that motor vehicle plus the maximum load to be carried or drawn by the motor vehicle. The weight of the driver and a helper is not included. The gross weight of a tow truck does not include the weight of any vehicle that is being towed partly or wholly upon the towed vehicle's own wheels. However, the gross weight of a flatbed tow truck must include the weight of the heaviest vehicle being transported on the bed of the truck. (Also see the *Excluded and exempt vehicles* section beginning on page 6.)

Unloaded weight method

Any truck with an unloaded weight of more than 8,000 pounds and any tractor with an unloaded weight of more than 4,000 pounds.

Unloaded weight means the actual weight of the motor vehicle, including all equipment necessary for its performance as a vehicle, necessary for its safety, permanently attached to the vehicle, used exclusively for the protection of its load, or used exclusively for loading or unloading the vehicle. The unloaded weight includes the weight of full fuel tank(s) used to propel the vehicle. The weight of the driver and a helper is not included.

The election to use the unloaded weight method is made on the first HUT return (Form MT-903) filed by the carrier during the calendar year and may not be changed until the first HUT return is filed for the next calendar year.

Certificate of registration

Before operating in New York State, you must obtain a certificate of registration for each motor vehicle subject to the tax. In general, there are two types of certificates of registration, a HUT certificate of registration and an automotive fuel carrier (AFC) certificate of registration:

- 1) A ***HUT certificate of registration*** is required for any truck, tractor, or other self-propelled vehicle with a gross weight in excess of 18,000 pounds.
- 2) An ***AFC certificate of registration*** is required for any truck, trailer, semitrailer, or other attached device transporting automotive fuel and having a gross weight in excess of 18,000 pounds. A separate AFC certificate of registration is **not** required for any tractor transporting automotive fuel trailers that has been issued a HUT certificate of registration.

Automotive fuel includes diesel motor fuel (kerosene, kero-jet fuel, no. 2 heating oil, and other fuels commonly used in diesel engines) and motor fuel (gasoline, aviation gas, benzol, and other fuel suitable for use in nondiesel motor vehicle engines).

When the unloaded weight method is used, any truck with an unloaded weight of more than 8,000 pounds, and any tractor with an unloaded weight of more than 4,000 pounds, must also have the applicable certificate of registration.

For more specific information on obtaining these certificates, see *Registration requirements* beginning on page 8.

Certificate of registration fees

The fee for a HUT or AFC certificate of registration is \$15 for each truck, tractor, or other self-propelled vehicle. The fee for an AFC certificate of registration is \$5 for each trailer, semitrailer, or other attached device used for transporting automotive fuel.

Are any vehicles excluded from these registration requirements?

Yes, certain buses, highway construction and maintenance vehicles, and other vehicles are excluded. Certain emergency, farm, recreational, and other vehicles are exempt. For details, see *Excluded and exempt vehicles* beginning on page 6.

As a carrier, do I have any other registration or filing requirements?

Yes. You may be liable for other business, personal, and sales and use taxes. You will also have to keep detailed records of your daily operations, and you must be able to produce them upon request by the Tax Department for auditing. If you transport automotive fuel, cigarettes, or alcoholic beverages, there are additional record keeping and licensing requirements which are addressed later in this publication.

Publication 538-F, *New York State Tax Forms and Publications for Carriers*, provides a listing of additional information, forms, instructions, and other documents that you may need.

Excluded and exempt vehicles

Excluded vehicles

Certain vehicles, regardless of their weight, are excluded from the highway use tax registration requirements provided they are used for the purpose for which they were designed. If you intend to use an excluded vehicle for any other purpose, you must first obtain a certificate of registration. You will also be required to file a tax return to report and pay tax on the mileage traveled during the nonexcluded use. Except in the case of buses, excluded vehicles may not be used to deliver passengers or materials.

The following vehicles are excluded from the highway use tax:

- **Omnibus** - a vehicle engaged in the transportation of passengers for hire that is subject to the jurisdiction of the U.S. Department of Transportation, the New York State Department of Transportation, or any state regulatory agency concerned with the regulation of passenger transport having a seating capacity of more than seven persons in addition to the driver.
- **Power shovel** - a machine that utilizes a bucket to dig out ground, earth, stone, or similar substances, and deposit it elsewhere. This description includes a backhoe, front-end loader, or wheeled excavator.
- **Road-building machines** - any of the several machines that are useful in constructing highways but do not transport property over public highways. Common examples of road-building machines are motor graders and scrapers. Even if these machines are used in a project other than building or repairing a highway, they will not need certificates of registration. A road-building machine also includes a vehicle in excess of eight feet in width, equipped with pneumatic tires, and designed, constructed, and used for transporting earth and rock in connection with excavation and grading work (commonly referred to as an earth mover). Dump trucks, tank

trucks, concrete mixers, concrete pumps, any vehicles utilizing conventional truck chassis, and any vehicles capable of travel at a speed in excess of 40 miles per hour are not road-building machines.

- **Road roller** - a machine used to smooth out freshly poured asphalt or earth.
- **Road sweeper** - a machine that sweeps debris from the road.
- **Sand spreader** - a truck that spreads sand on the public highways. A sand spreader may carry no load other than sand on a public highway. A truck or other device that spreads anything else is not considered to be a sand spreader.
- **Snow plow** - a machine specially designed for snow removal whether by pushing it with a blade, blowing it away or lifting it into a truck. A truck or passenger vehicle with a snow blade attached is not considered to be a snow plow.
- **Tractor crane** - a machine for raising, skidding, shifting, and moving logs or other heavy objects in off-road locations. It must be able to lift three tons at one time. A tractor crane may not be operated on public highways while transporting any load.
- **Truck crane** - a machine for raising, shifting, and lowering heavy loads by means of a projecting swinging arm. It must be able to lift a load at least twenty feet from the ground. The machine must proceed forward on tires in contact with the ground. Examples of truck cranes are derricks, aerial bucket trucks, concrete pumps, and cherry pickers, all of which have no cargo capacity. A truck that regularly tows other vehicles is not considered a truck crane.
- **Well driller** - a machine that drills wells. A truck or derrick which supports special apparatus used for boring holes, whether the apparatus is percussion or rotary, is a well driller. Support trucks, such as pickup trucks or tank trucks, are not considered to be well drillers.

Exempt vehicles

To be exempt from the highway use tax registration requirements, a vehicle must be used exclusively for the exempt activity. If you intend to use an exempt vehicle for any other activity, you must first obtain a certificate of registration. If you use the vehicle for a nonexempt activity in a calendar month, you will also be required to file a tax return to report and pay tax on **both** the exempt and nonexempt miles for the entire calendar month. An exempt vehicle may not be used to deliver passengers or materials other than those connected with the exempt activity. The following vehicles are exempt from the highway use tax:

- Vehicles engaged exclusively in the transportation of United States mail under a contract with the United States Postal Service.

- Vehicles under the control of any agency or department of the United States, or any state, county, city, town, or municipality.
- Vehicles owned and operated by a farmer to transport the farmer's own agricultural products, pulpwood, or livestock (including packaged, processed, or manufactured products) that were originally grown or raised on the farmer's own farms or orchards; or in transporting farm products from farms contiguous to the farmer's own farms; or when used to transport supplies and equipment for use or consumption on the farmer's own farms.
- Vehicles used exclusively to transport household goods under authority of the New York State or the United States Department of Transportation.
- Vehicles owned and operated by any fire company or department as defined in section 3 of the Volunteer Firemen's Benefit Law.
- Recreational vehicles (vehicles such as motor homes, pickup trucks with attached campers, and buses) used exclusively for personal pleasure by an individual and not used in any business endeavor.
- Vehicles where power units are operating under transporter or dealer plates.

Registration requirements

HUT and AFC certificates of registration

As a carrier, you must obtain HUT certificates of registration for tractors (including tractors that transport automotive fuel) and trucks (but **not** trucks that transport automotive fuel). You must obtain AFC certificates of registration for trucks, trailers, semitrailers, or other attached devices that transport automotive fuel. *Automotive fuel* includes diesel motor fuel (kerosene, kero-jet fuel, no. 2 heating oil, and other fuels commonly used in diesel engines) and motor fuel (gasoline, aviation gas, benzol, and other fuel suitable for use in nondiesel motor vehicle engines).

A truck with an AFC certificate of registration is not limited to hauling automotive fuel; this certificate also provides the vehicle all of the coverage that a HUT certificate provides, and a separate HUT certificate is not required. Certificates of registration are not required for trailers, semitrailers, or other attached devices if they do not transport automotive fuel.

Application and fees

To apply for a certificate of registration, file a completed Form TMT-1, *Application for Highway Use Tax and/or Automotive Fuel Carrier Certificate(s) of Registration*. The fee is \$15 for each truck, tractor, or

other self propelled vehicle and \$5 for each trailer, semitrailer, or other attached device used for transporting automotive fuel.

Renewals

The Tax Department **may** require carriers to renew their certificates of registration once a year. At the time of renewal, new certificates of registration will be issued to replace any outstanding certificates of registration. The renewal fee for a truck, tractor, or other self-propelled vehicle is \$4, and the renewal fee for a trailer, semitrailer, dolly, or other attached device used for transporting automotive fuel is \$2.

Corrected certificate of registration

If there is a change to the license plate information or an increase in the gross or unloaded weight of a motor vehicle, you must submit the corrected information to the Tax Department. When we receive the corrected information, we will issue you a new certificate of registration at no charge.

If there is a decrease in the gross or unloaded weight of a motor vehicle, you may apply for a corrected certificate at no charge only during the month of January. In other months, you would need to cancel the current certificate and apply for a new certificate reflecting the decrease in the gross or unloaded weight of the vehicle. The fee for a truck, tractor or other self-propelled vehicle is \$15, and the fee for a trailer, semitrailer, or other attached device used to transport automotive fuel is \$5.

Duplicate certificate of registration

If a certificate of registration is lost, mutilated, or destroyed, you may request a duplicate certificate by filing Form TMT-334, *Application for Duplicate Highway Use Tax and/or Automotive Fuel Carrier Certificates of Registration*. There is a \$2 fee for each duplicate certificate.

Trip certificates

Instead of obtaining a HUT certificate of registration and filing Form MT-903, you may obtain a HUT trip certificate of registration for a fee of \$25 from a permit service (see *Permit service company* on page 10). The HUT trip certificate of registration allows you to operate in New York State until it expires on midnight of the third day after the date it was issued. This period cannot be extended by Saturdays, Sundays, or public holidays. For the period covered by the HUT trip certificate, you are not required to file a tax return or pay tax on miles traveled in New York State by the motor vehicle for which the certificate is issued. You must keep copies of each HUT trip certificate for at least four years to prove you have met your highway use tax obligations. No refund is allowed for a HUT trip certificate that has not been used. You may not apply for more than 10 trip certificates during a calendar year.

A HUT trip certificate is not available for any trucks, trailers, dollies, or other attached devices transporting automotive fuel.

A vehicle that is subject to both the highway use tax and the fuel use tax may need both the highway use tax trip certificate and the fuel use tax trip certificate. (See *Fuel use tax / International Fuel Tax Agreement (IFTA)* beginning on page 16 for information about the fuel use tax.)

Leased vehicles

If you lease a vehicle from someone else or have control over a vehicle owned by someone else, you (lessee) may need to get a certificate of registration for that vehicle. If the owner (lessor) already has a certificate of registration for the vehicle, and the lease or other agreement is for 30 days or less, you are not required to get a certificate of registration. However, if the lease or agreement covers a period of more than 30 consecutive days, you must get a certificate of registration unless you will operate the vehicle for 10 days or less in New York State. If you do get a certificate of registration, it is valid only during the term of the lease or agreement.

Permit service company

You may obtain a certificate from a permit service company approved by the Tax Department. In addition to the Tax Department application fee, the permit service company will charge a service fee. To obtain a list of approved permit service companies, contact us as directed under *Need help?* on the back cover of this publication.

One Stop Credentialing and Registration (OSCAR)

New York State provides a single point of contact to apply for various operating credentials over the Internet. If you are already registered for the highway use tax, you may also obtain many of the certificates described above online at *One Stop Credentialing and Registration - OSCAR* - at (www.oscar.state.ny.us).

New York State Department of Motor Vehicles registration

Tax clearance required for motor vehicle registrations

The Department of Motor Vehicles (DMV) will not renew the registration or transfer the registered ownership of any motor vehicle that was subject to the highway use tax unless a certificate of tax clearance is provided. The Tax Department will not issue a certificate of tax clearance until all monies due under the highway use tax have been paid by the previous registrant. You must provide one of the following when the vehicle is registered or reregistered with DMV:

- Form MT-370.1, *Certificate of Tax Clearance*, or
- Form MT-370.2, *Certificate of Tax Clearance* (must be in the registrant's name)

Caution: When purchasing a used vehicle that was previously registered for the highway use tax, be sure to obtain Form MT-370.1 before completing the purchase. If the seller owes any monies

(including having delinquent tax returns) under the highway use tax, you will not be able to register the vehicle with DMV.

Filing and record keeping requirements

Liability for tax

Generally, the highway use tax is imposed on you as the carrier. However, if you are not the owner of the motor vehicle, both you and the owner may be held liable for payment of any tax due.

Anyone, whether lessor or lessee, who has been issued a certificate of registration (except a highway use tax trip certificate of registration) must file Form MT-903, *Highway Use Tax Return*. This form must be filed even if no tax is due, or even if another person will pay any tax due on the use of the vehicle operated under the certificate of registration.

If the owner of the vehicle has a certificate of registration and leases the vehicle during the reporting period to a carrier who operates it under the owner's certificate, the motor vehicle must be reported by the owner in either of the following ways:

- If the owner pays the tax, the motor vehicle and mileage should be reported on the owner's tax return.
- If the lessee pays the tax, the owner must file Form MT-903, list the motor vehicle, and indicate that the motor vehicle will be reported by another. The motor vehicle and mileage should be reported on the lessee's tax return.

Carriers who lease or interchange vehicles are required to give each other all information necessary for completing Form MT-903.

Filing your highway use tax return

You must file Form MT-903, *Highway Use Tax Return*, on a quarterly basis, starting with the calendar quarter when you began operations in New York State. After filing quarterly in the first year, you will be reclassified by the Tax Department to a monthly filer if your preceding calendar year's total highway use tax is more than \$4,000. If your preceding calendar year's total highway use tax liability is \$250 or less, and you were subject to the highway use tax during the entire preceding calendar year, you may request permission to file once a year.

You must compute the highway use tax using either the gross weight method or the unloaded weight method. You must choose the method to be used on the first return you file for each calendar year and continue to use that method on all returns throughout the year. For more information concerning the *gross weight method* and the *unloaded weight method* of computing the highway use tax, see Form MT-903-I, *Instructions for Form MT-903*.

Record keeping requirements

You must keep records for each truck and tractor for which a certificate of registration is required, whether or not there is tax due for a particular period (see *Certificate of registration* beginning on page 5). You are not required to keep records for trailers or other attached devices. Your records must distinguish the operations of motor vehicles subject to tax from those operations not subject to tax.

You should keep all records used to calculate the New York State highway use tax liability. The records must substantiate your actual miles traveled.

All records must be kept within New York State unless the Tax Department consents to their removal. You must keep all records for at least four years from the due date of the tax return to which they relate or the date the return was filed, whichever is later. All records must be available for inspection at any reasonable time upon the demand of the Tax Department.

Daily record of operations

You must keep a daily record of operations for each motor vehicle that includes all of the following information:

- the certificate of registration number;
- license plate number and jurisdiction where licensed (state or Canadian province);
- the vehicle identification number;
- the name of the owner if operating a leased or interchanged vehicle.

This record of operations must show, as daily manifests or trip records, all of the following information for each trip:

- the date of each trip;
- the point of origin and the point of destination for each trip, and the number of round trips each day (if applicable);
- the total miles traveled in New York State and the total miles traveled outside New York State;
- the total toll-paid New York State Thruway miles (see TSB-M-95(6)M, *Thruway Defined for Highway Use Tax Purposes*).

If you use the gross weight method to compute your tax, the daily manifests or trip records for each vehicle must also show:

- the total miles traveled in New York State laden (with a load or any part of a load), and
- the total miles traveled in New York State unladen (without any load whatsoever).

Carriers who use the gross weight method must show the above information separately for each trip for each of the following:

- each tractor that operates alone,
- each truck that operates with an attached device when either is laden, and
- each unladen truck that operates with an unladen attached device.

If you use the unloaded weight method, you must keep a record of operations for each truck with an unloaded weight of more than 8,000 pounds and for each tractor with an unloaded weight of more than 4,000 pounds.

You must prepare a monthly summary of the above for each motor vehicle subject to the record keeping requirements.

Other records

Every carrier must keep available records used to compute actual mileage including:

- odometer, hubometer, and any similar readings;
- fuel consumption records;
- map mileage from the point of origin to the point of destination; or
- tariff schedules/record of mileage used for billing purposes.

If you report under the gross weight method, you must also maintain records such as:

- bills of lading;
- waybills;
- freight bills;
- invoices;
- shipping orders;
- dispatch sheets;
- records of motor vehicles and drawn devices leased, interchanged, or hired; and
- drivers' daily logs or trip sheets necessary to substantiate the operations of the motor vehicle.

For additional information on record keeping for highway use tax, see TSB-M-05(5)M, *Record-Keeping Requirements for Carriers Subject to the Highway Use Tax*.

Thruway mileage records

Miles traveled on those portions of the New York State Thruway that are considered toll-paid mileage (see TSB-M-95(6)M) are not subject to the highway use tax.

As a carrier, you must establish the Thruway travel with toll receipts or monthly invoices. Where no toll is collected, but the mileage is considered toll-paid mileage (for example, one-way tolls), Thruway travel should be evidenced by other records such as bridge tickets, vehicle logs, fuel receipts, or other external indices that establish travel on a qualified portion of the Thruway.

You must keep receipts for Thruway toll charges paid in cash or monthly invoices for tolls that are charged. You must write the vehicle certificate number or vehicle identification number and the trip or manifest number on the back of each cash receipt. For a charge account, you must enter the vehicle certificate number or vehicle identification number on the detailed listing of trips on the invoice received from the Thruway Authority. Contact the New York State Thruway Authority for more information on charge accounts by calling 1 800 468-9946, or visit its Web site (at www.nysthruway.gov).

A carrier should attach the toll receipts to the particular manifest or trip record to which they apply, or otherwise maintain them so that they can be readily identified with the applicable toll-paid Thruway mileage.

Keep the same accurate daily record and monthly summary of toll-paid Thruway mileage as you keep for all other mileage traveled within the state. (See *Daily record of operations* on page 12)

**Automotive fuel
carrier manifest**

If you transport automotive fuel into, through, or within New York State, you must have a completed *Uniform Manifest* form (Form FT-960 or Form FT-970) in the vehicle. The *Uniform Manifest* form is not required for the transportation of propane or other liquefied petroleum gases, unless they are intended for use as a motor fuel. The *Uniform Manifest* form may be reproduced or incorporated into other fuel documents, provided the reproduction is an exact facsimile, in the same format, and of the same general size, as the official *Uniform Manifest* form. Permission to use a different format must be requested in writing from:

NYS Tax Department
TTTB - FACCTS
WA Harriman Campus
Albany NY 12227

If you do not have the manifest in the vehicle, the vehicle and the fuel may be seized. In addition, you may be subject to criminal prosecution.

**License requirement
for an importing/
exporting fuel
transporter**

In addition to the manifest requirements, if you transport motor fuel (gasoline, aviation gas, benzol, or similar fuels) into New York State for use, distribution, storage, or sale within the state or export motor fuel from New York State, you must be licensed by the Tax Department as

an importing/exporting transporter. To apply for a license, complete Form TP-650, *Application for Registration under Articles 12-A and 13-A*.

If you transport motor fuel (gasoline, aviation gas, benzol, or similar fuels) into New York State while not licensed, you are subject to criminal prosecution.

This license is not needed for diesel motor fuel being transported into or out of New York State.

Transporter’s monthly report

Carriers who transport motor fuel or diesel motor fuel into or out of New York State must complete and file Form FT-942, *Diesel Motor Fuel and Motor Fuel Transporter’s Monthly Report*, each month.

Record retention formats

As a carrier, you may keep any required records in either hard copy or electronic format. The electronic records, either alone or in conjunction with your other records, must contain sufficient information to support and verify all of the entries you made on your tax returns, and to determine the proper taxes that are due. *Electronic* means any technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. For more information, see Part 2402 of the Tax Department’s regulations (20 NYCRR), *Taxpayer Record Retention Formats*. The regulations may be accessed via the Internet at (<http://www.dos.state.ny.us/info/nycrr.htm>).

Enforcement provisions

Penalties and interest

Any carrier who does not file Form MT-903, *Highway Use Tax Return*, on time or pay the proper amount of tax due on the return, will be subject to interest, penalties, or both. You may compute the interest and penalty amounts due by visiting the Tax Department’s Web site (www.nystax.gov). Alternatively, you may contact the Tax Department by telephone and a representative will calculate the interest and penalty for you. See *Need Help?* on the back cover.

Denial, suspension, or revocation of a certificate of registration

The Tax Department may, after an opportunity for a hearing has been given, deny, suspend, or revoke a certificate of registration for any violation of the provisions, rules, or regulations of the highway use tax. Further, an application for a certificate of registration may be **denied** for failure to pay any amount due under **any** of the taxes and impositions administered by the Tax Department.

A certificate of registration may be denied, suspended, or revoked, without a hearing, for failure to file a return (Form MT-903) or failure to pay any amount due under highway use tax. The New York State Department of Motor Vehicles will not reregister a motor vehicle if your

certificates of registration have been suspended. Any suspension of the highway use certificates of registration will remain in effect until you file the outstanding returns and pay the taxes due, or until the matter is otherwise resolved.

The denial, suspension, or revocation of a certificate of registration for any motor vehicle shall automatically result in suspension or revocation of all certificates of registration issued to you.

Liens, seizures, and suspensions

If you fail to timely pay any fee, tax, penalty, or interest imposed by the highway use tax, your real and personal property becomes subject to a lien. The Tax Department may seize any motor vehicle that you own, or any vehicular unit under your lawful use and control. Seized vehicles may be sold at public auction to satisfy any amount due under the highway use tax. In addition, the New York State Department of Motor Vehicles may suspend the registration plates of all motor vehicles, trailers, semitrailers, dollies, and other devices if you fail to pay any amount due under the highway use tax.

Civil fines

Any person who fails to obtain a certificate of registration as required by the highway use tax law shall, after due notice and an opportunity for a hearing, be liable for a civil fine of \$500 to \$2,000 for a first violation and be liable for a civil fine of \$1,000 to \$3,500 for a second or subsequent violation occurring within three years of a prior finding of violation.

Criminal penalties

Section 1815(a) of Article 37 of the Tax Law provides for a fine of \$100 to \$250 upon a first conviction for a violation of any provision of the highway use tax or the fuel use tax. Upon a second or subsequent conviction, the fine increases to \$250 to \$500, or the violator may be imprisoned for up to 10 days.

Any person who files, or causes to be filed, any return, affidavit, or statement required or permitted by the highway use tax or fuel use tax that is willfully false or fraudulent, or who willfully fails to file a return, with intent to evade the tax, is guilty of a class E felony. An individual convicted of a class E felony may be sentenced to imprisonment for up to four years, a fine of \$50,000, or both. A corporation convicted of a class E felony may be sentenced to a fine of \$250,000 or more.

Fuel use tax / International Fuel Tax Agreement (IFTA)

What is the fuel use tax?

New York State imposes a fuel use tax on carriers who operate qualified motor vehicles on the public highways of New York State, **including the toll-paid portion of the New York State Thruway**. The purpose of the fuel use tax is to subject fuel purchased outside New York State

and used to operate qualified motor vehicles on the state's public highways to the same taxes (excise tax, sales tax, and petroleum business tax) as are imposed on fuel purchased inside New York State.

A carrier computes and pays the fuel use tax on the gallons of fuel used to operate qualified motor vehicles on New York State public highways. The fuel use tax rates are established each quarter based on the average price of fuel in the state.

A credit against the fuel use tax is allowed for fuel that the carrier purchased tax-paid in New York State and placed into the fuel tank of a qualified motor vehicle.

If you operate your motor vehicle only in New York State and purchase all your fuel in New York State with the taxes included, you are not subject to the fuel use tax.

What vehicles are subject to the fuel use tax?

Qualified motor vehicles are subject to New York State fuel use tax licensing or permit requirements. Qualified motor vehicles are vehicles that are used, designed, or maintained for transportation of persons or property and meet any of the following conditions:

- have two axles and a gross vehicle weight or registered gross vehicle weight of more than 26,000 pounds (11,797 kilograms);
- have three or more axles (whatever the weight);
- are used in combination, and the combined gross weight is more than 26,000 pounds (11,797 kilograms).

Excluded and exempt vehicles

All vehicles excluded or exempted from the highway use tax, except buses engaged in the interstate or foreign transportation of passengers for hire, are exempt from New York State's fuel use tax. (For a listing of excluded or exempted vehicles, see *Excluded and exempt vehicles* beginning on page 6.) Although buses are subject to the fuel use tax, fuel used in the operation of a bus while engaged in local transit service in New York State pursuant to a certificate of public convenience and necessity issued by the New York State Commissioner of Transportation or by the United States Department of Transportation, or pursuant to a contract, franchise, or consent between the carrier and New York City, or an agency of New York City is exempt (see TSB-M-96(3)M, *Elimination of Fuel Use Tax on Local Transit Operations for Omnibuses*, for more information).

Licenses and permits

New York State is a participating member of the International Fuel Tax Agreement (IFTA). IFTA simplifies the reporting of fuel taxes by allowing carriers to report taxes owed to all of the participating jurisdictions (states and Canadian provinces) on a single tax return that

is filed with the carrier's base jurisdiction.

In general, a qualified motor vehicle that operates in two or more states or provinces must be licensed under IFTA in its base jurisdiction or under an IFTA trip permit for each IFTA jurisdiction in which it operates. A copy of the IFTA license or IFTA trip permit must be placed in each qualified motor vehicle. (For more information on IFTA, see Publication 536, *International Fuel Tax Agreement (IFTA), A Guide for New York State Motor Carriers*.)

A carrier who operates qualified motor vehicle(s) entirely within New York State is not required to be licensed under IFTA. However, the carrier must place a copy of its HUT or AFC certificate of registration in each qualified motor vehicle that operates entirely within New York State to serve as its Fuel Use Tax license.

Leases

A leasing agreement should detail which party—lessor or lessee—is responsible for reporting the fuel use tax. The agreement should specifically define the period of time covered by the agreement. Both the lessor and the lessee should keep a copy of the agreement. The party that will report and pay the fuel use tax must obtain an IFTA license and decals for the qualified motor vehicle.

As a carrier, if you (lessee) lease a qualified motor vehicle, without a driver, from a rental company, the lessor (owner of the vehicle) is the party responsible for reporting and paying the fuel use tax. However,

- If the lease is for 30 days or more, you may choose to report and pay the fuel use tax. In this situation, you and the owner of the vehicle may get an IFTA license and decals for the vehicle, and the vehicle may have two sets of licenses and decals.
- If the lease is for less than 30 days, the lessor must report and pay the fuel use tax unless (1) the lessor has a written rental contract which designates you as the party responsible for reporting and paying the fuel use tax; and (2) the lessor has a copy of your license or trip permit which is valid for the term of the rental.

If you lease a qualified motor vehicle from an independent contractor:

- If the lease is for less than 30 days, the independent contractor is required to report and pay the fuel use tax.
- If the lease is for 30 days or more, you are required to report and pay the fuel use tax unless the independent contractor is designated in a written agreement or contract to report and pay

the fuel use tax.

Fuel use tax return

A carrier that operates in multiple jurisdictions and is based in New York State must obtain a New York IFTA license and must file Form IFTA-100, *IFTA Quarterly Fuel Use Tax Return*, with New York State each calendar quarter. A carrier licensed in New York State should see Publication 536, *International Fuel Tax Agreement (IFTA), A Guide for New York State Motor Carriers*.

A carrier who was issued an IFTA license from another jurisdiction must file the IFTA tax return with that jurisdiction to account for any fuel use tax due in all IFTA jurisdictions, including New York State.

A carrier who operates qualified motor vehicle(s) entirely within New York State may need to file Form MT-903-FUT, *Fuel Use Tax Return*, to account for any fuel use tax due in New York State only. This form is filed with Form MT-903 and is due on the last day of the calendar month immediately following the close of the reporting period. (See the instructions on Form MT-903-FUT, *Fuel Use Tax Return*, for details).

Penalties and interest

If you fail to file your return on or before the due date or fail to pay all of the taxes due with the return, you must pay interest on any taxes due. The interest rate is 12% annually or 1% per month for each month or part of a month that your return or full payment of taxes is late.

You may also be subject to a penalty of \$50 or 10% of the amount of taxes determined to be due, whichever amount is greater. This penalty may be waived if you can show that the failure to file or pay was due to reasonable cause.

If your failure to pay the taxes is due to fraud, you will be subject to a penalty of 50% of the taxes due plus 50% of the interest due.

Credits and refunds

You may use a fuel use tax credit to reduce amounts (fuel use tax, interest, or penalty) due on subsequent tax returns, or you may request a refund of the credit. You may use a credit on tax returns covering the next eight calendar quarters. A New York-based IFTA carrier or a carrier filing Form MT-903-FUT may claim a refund of the fuel use tax credit on Form MT-907, *Claim for Fuel Use Tax Refund*. A carrier must claim a refund of the credit within forty-nine months following the end of the return period in which the credit was earned.

Transporters of alcoholic beverages

You must keep complete and accurate records (invoices, delivery tickets, etc.) of any alcoholic beverages that you transport into, within,

or through New York State. These records must be available for inspection by the Tax Department upon request.

If you are transporting more than 90 liters of liquor into, through, or within New York State, you must complete Form MT-132, *Manifest Form for Liquors*, and keep it in the vehicle. Form MT-132 may be reproduced (photocopied, computer-generated, etc.) and/or incorporated into other documents, provided the reproduction is in the same format and is the same general size as the official Form MT-132. To use a different format, you must request permission, in writing, from:

NYS Tax Department
Deputy Commissioner
Office Of Tax Enforcement
Building 9, Room 211
WA Harriman Campus
Albany NY 12227

If you do not have the manifest in the vehicle, the vehicle and liquor may be seized. In addition, you are subject to criminal prosecution. (See Publication 570, *Information on the Alcoholic Beverages Tax*, for additional information.)

You must provide a copy of the manifest to the registered distributor, if any. The transporter and the distributor must keep a copy for 3 years from the end of the month when the liquor was delivered.

Transporters of cigarettes and tobacco products

Shipments

You must keep complete and accurate records (invoices, delivery tickets, etc.) of any cigarettes or tobacco products that you transport into, within, or through New York State. These records must be available for inspection by the Tax Department, upon request.

You may only deliver cigarettes in New York State to:

- a licensed or registered cigarette agent, wholesale dealer, or retail dealer;
- an export warehouse proprietor or a person operating a customs bonded warehouse;
- an officer, employee, or agent of the federal or New York State government, or a political subdivision of either (acting in an official capacity).

A list of currently licensed or registered cigarette agents, wholesale dealers, and retail dealers is available on the Tax Department's Web site at (www.nystax.gov). You may also call the Tax Department toll free at

1 877 299-1443 (U.S. and Canada only) during normal business hours.

See TSB-M-03(1)M, *Enforcement Provisions Regarding the Sale, Shipment, and Possession of Cigarettes and Tobacco Products in New York State*, for more information.

Invoices

If you transport more than 5 pounds of tobacco, more than 250 cigars, or any unstamped cigarettes in New York State, you must possess an invoice or delivery ticket showing all of the following:

- the name and address of the consignor or seller;
- the name and address of the consignee or purchaser;
- the quantity of each brand of tobacco, cigar, or cigarette;
- the name and address of the person who has assumed or will assume payment of the tax (not required if transported by common carrier to a bonded or public warehouse);
- the wholesale price of the products or the amount of tobacco products tax paid or payable (if transporting tobacco or cigars);
- the reason for exemption (if the tobacco, cigars, or cigarettes are exempt from tax).

If you are unable to produce the required invoice or delivery ticket for inspection, your vehicle and its cargo may be seized. You may also be subject to criminal prosecution.

Other taxes

Corporation taxes

Trucking corporations are generally subject to the corporation franchise tax imposed under Article 9-A of the Tax Law. However, when a corporation begins doing business in New York State, it may make a one-time election to be subject to the franchise tax under sections 183 and 184 of Article 9 of the Tax Law if more than 50% of its receipts are derived from trucking. For more information, see Form CT-187, *Election or Revocation of Election By Railroad and Trucking Corporations To Be Taxable Under Article 9*, or TSB-M-97(8)C, *Railroad and Trucking Corporations Subject to Tax under Article 9, 9-A or 32 of the Tax Law*.

Personal income tax

Resident

A resident of New York State is subject to income tax on his or her total federal adjusted gross income, with certain modifications. A full-year resident must report income on either Form IT-150, *Resident Income Tax Return (short form)* or Form IT-201, *Resident Income Tax Return (long form)*. For more information, see the instructions for Form IT-150 or Form IT-201 (Form IT-150/201-I).

Nonresident or part-year resident

A nonresident or part-year resident of New York State is subject to income tax on his or her income received from New York State sources and all income received during the resident period.

Compensation earned by a nonresident employee of an interstate carrier who works **exclusively in New York State** is New York State source income and, therefore, is subject to New York State personal income tax.

A nonresident whose only connection with New York State is compensation received from an interstate motor carrier or an interstate motor private carrier for regularly assigned duties performed in more than one state is not subject to New York State personal income tax. This compensation is subject to state and local income taxes only in the employee's state of residence. For more information, see TSB-M-91(5)I, *Taxation of Employees of Interstate Rail Carriers, Interstate Motor Carriers, Interstate Motor Private Carriers and Interstate Air Carriers*.

A nonresident or part-year resident who is required to file a New York State income tax return must use Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*. For more information, see Form IT-203-I, *Instructions for Form IT-203*.

Withholding tax

Resident employees

An employer who is an interstate motor carrier or motor private carrier must withhold New York State (and New York City and Yonkers, if applicable) income tax on the entire amount of compensation paid to any employee who is a New York State resident.

Nonresident employees

An employer must withhold New York State (and Yonkers, if applicable) income tax on compensation paid to a nonresident employee performing services exclusively within New York State.

An employer who is an interstate motor carrier or motor private carrier should not withhold New York State, New York City, or Yonkers taxes on compensation paid to an employee who is a New York State nonresident if the employee performs regularly assigned duties with respect to a motor vehicle in New York State and one or more other states.

For additional information on New York State withholding requirements, wage reporting, and unemployment insurance, see Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*.

Sales and use taxes

Exempt purchases and leases of tractors/trailers

The purchase, rental, or lease of tractors, trailers, and semitrailers which, when used in combination, have a gross vehicle weight of more than 26,000 pounds (11,793.4 kilograms) is exempt from New York State and local sales and use taxes. To make tax-exempt purchases or leases of these vehicles, the purchaser/lessee must give the seller a properly completed Form ST-121.1, *Exemption Certificate for Tractors, Trailers, Semitrailers, or Omnibuses*. The exemption also applies to the purchase of:

- all property (including parts) purchased for equipping, maintaining, or repairing a qualifying vehicle (this includes original equipment and all other property whether sold installed or uninstalled);
- installation, maintenance, and repair services performed on property that is installed on a qualifying vehicle.

See TSB-M-87(16)S, *Sales Tax Exemption For Tractors, Trailers & Semi-Trailers*, and TSB-M-87(16.1)S, *Sales Tax Exemption For Tractors, Trailers & Semitrailers*, for additional information on qualified vehicles and exempt purchases.

Taxable purchases and leases

Purchases and leases of most other vehicles are subject to sales and use tax. The taxability of these transactions is governed by many factors, such as:

- the resident status of the purchaser or lessee (anyone conducting any employment, trade, business, or profession in New York State is a resident of the state for sales and use tax purposes);
- the terms of the lease (short-term vs. long-term);
- the jurisdiction in which the business is resident.

Notes

New York State Department of Taxation and Finance

Online Tax Center

The place for **all** electronic services!




The *Online Tax Center* offers individuals, businesses, and tax professionals secure and convenient access to a variety of tax services. Access is available 24 hours a day, 7 days a week.* Use it at your convenience! For more information, visit us on the Web at www.nystax.gov and click on the *Online Tax Center* link.

* excluding scheduled maintenance

After you register, you can:

- pay any amount due on an income tax extension of time to file
- view and reconcile your estimated income tax account or make a payment
- view and pay tax bills (individuals and businesses)
- file a sales tax no-tax-due return

Without registering you can:

- visit our *Taxpayer Answer Center* for answers to frequently asked questions (FAQs)
- determine which income tax form to file
- apply for an automatic six-month extension of time to file your income tax return
-  get information on e-file and learn how to e-file your income tax return
- find out if you are eligible for **free** e-filing with **FreeFile**
- learn about your electronic payment options, including credit card and electronic funds withdrawal
- check the status of your current-year income tax refund
- use the penalty and interest calculator
- sign up for free e-mail notifications through our subscription service
- look up sales tax jurisdiction and rate information
- and more!



www.nystax.gov

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are
available 24 hours a day,
7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to
5:00 P.M. (eastern time), Monday through Friday.
To order forms and publications: 1 800 462-8100
Business Tax Information Center: 1 800 972-1233
From areas outside the U.S. and
outside Canada: (518) 485-6800



Text Telephone (TTY) Hotline (for persons with
hearing and speech disabilities using a TTY): If you
have access to a TTY, contact us at 1 800 634-2110.
If you do not own a TTY, check with independent
living centers or community action programs to find
out where machines are available for public use.



Persons with disabilities: In compliance with the
Americans with Disabilities Act, we will ensure that
our lobbies, offices, meeting rooms, and other facilities
are accessible to persons with disabilities. If you have
questions about special accommodations for persons
with disabilities, please call 1 800 972-1233.