

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-78 (2) TMT-FU
Fuel Use Tax
August 15, 1978

Subject: Sales Tax Component (Jan. - March 1978)
(MT904)

INSTRUCTIONS FOR COMPUTING FUEL USE TAX LIABILITY

Effective January 1, 1978, Chapter 880 of the Laws of 1977 amended the fuel use tax by adding a sales tax component to the tax. This additional tax is computed by adding the sales tax component of 4.4¢ per gallon to the existing 8¢ motor fuel and 10¢ diesel motor fuel rates per gallon to arrive at a composite rate to be used in determining fuel use tax liability for the January - March 1978 quarterly period.

The composite rate of 12.4¢ for motor fuel and 14.4¢ for diesel motor fuel is reflected on the enclosed truck mileage/fuel use tax return, form MT-903, covering the January - March 1978 quarterly period. The sales tax component was determined by applying the 7% rate as prescribed by the statute to the prevailing price per gallon for motor fuel and diesel motor fuel established by the State Tax Commission based upon the prices charged in the prior calendar quarter at 10 selected truck stops located in New York State.

In lieu of using the prevailing price sales tax component as outlined above, a carrier who maintains substantiating records may elect to compute the sales tax component based on average price per gallon on motor fuel and on diesel motor fuel used during the reporting period. The average price per gallon is determined by first adding the cost of all such fuels including all Federal, State and local taxes but excluding any State and local sales taxes. Such total is then divided by the total number of gallons for all motor fuel and diesel motor fuel, respectively, purchased by the carrier for use in his operations either within or without this State to arrive at his average price per gallon. The sales tax component is computed by multiplying the average price per gallon for both motor fuel and diesel motor fuel by the sales and compensating use tax rate of 7%. The sales tax component should respectively be added to the 8¢ motor fuel and 10¢ diesel motor fuel rates to arrive at the combined fuel use tax rates. Such rates, if different from that as pre-printed on the return, should be indicated at appropriate lines 7a and b and 8a and b and should be used in computing the fuel use tax liability.

Fuel use tax credit for motor fuel and diesel motor fuel purchased in New York State should be computed at the same composite rate which is used to determine the fuel use tax liability on motor fuel and diesel motor fuel consumed in New York State. However, the sales tax component portion of the composite rate may not be refunded nor may it be accrued on motor fuel and diesel motor fuel which is purchased in New York State but consumed in the carrier's operations outside this State. Any carrier whose purchases of motor fuel or diesel motor fuel in New York State exceed his usage of such fuels in this State may receive a notice of his adjusted credit balance which will differ from the credit indicated on his January - March 1978 tax return.

If you have any questions regarding the above instructions, please contact your nearest district office.