

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

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**1996 Fuel Use Tax Law Changes for Motor Carriers**

Currently, under the Highway Use Tax Law (Article 21 of the Tax Law), New York State imposes both a truck mileage tax and a fuel use tax on motor carriers that operate motor vehicles with a gross weight of more than 18,000 pounds that travel on the public highways of New York State. Beginning January 1, 1996, changes to both the fuel use tax and the truck mileage tax portions of the Highway Use Tax will take effect.

The following changes to the fuel use tax will affect carriers operating in New York State, effective January 1, 1996:

- New York will participate in the International Fuel Tax Agreement (IFTA).
- The fuel use tax will only be imposed on carriers that operate qualified motor vehicles.
- Refunds of 1994 and 1995 fuel use tax credits will be available.

This memorandum deals primarily with the changes to the fuel use tax. For information concerning changes to the truck mileage tax that will take effect on January 1, 1996, see TSB-M-95(15)M.

**General Information**

Beginning January 1, 1996, New York State will become a participating member of the International Fuel Tax Agreement. As a result, the fuel use tax will be imposed under a new Article 21-A of the Tax Law. The truck mileage tax, however, will continue to be imposed under Article 21 of the Tax Law.

Only those carriers that operate **qualified motor vehicles** on the public highways of New York State will be subject to the fuel use tax. A qualified motor vehicle is a motor vehicle, other than a recreational vehicle, that meets any of the following criteria:

- it has two axles and a gross vehicle weight or registered gross vehicle weight of more than **26,000 pounds**;  
or
- it has three or more axles regardless of weight; or
- it is used in combination and the gross vehicle weight of the combination is more than **26,000 pounds**.

(See Publication 538, *Guide to Highway Use Taxes and Other New York State Taxes for Carriers*, for a list of vehicles exempt from the New York fuel use tax.)

Vehicles that were previously subject to the fuel use tax may not be subject to tax after January 1, 1996, because of the change in the definition of vehicles subject to tax. For example, a vehicle with two axles that weighs 20,000 pounds is not subject to the New York fuel use tax after January 1, 1996. However, this vehicle remains subject to the truck mileage tax.

Every carrier subject to fuel use tax must have a New York fuel use tax license and decals issued by New York, or an IFTA license and decals issued by its base jurisdiction to travel in New York. If a carrier's vehicles travel only in New York State, or only in New York and in states or Canadian provinces that are not IFTA member jurisdictions, the carrier must have a New York fuel use tax license for travel in New York. For the calendar year 1996, the 15th series highway use tax permits and stickers will serve as the New York fuel use tax license and decals for those carriers not required to get an IFTA license and decals. The carrier will pay the New York truck mileage tax and fuel use tax on Form MT-903.

## **International Fuel Tax Agreement (IFTA)**

The International Fuel Tax Agreement, which is already in effect in many jurisdictions (states and Canadian provinces), simplifies the reporting of fuel use taxes by allowing a motor carrier to report, all the fuel taxes that it owes to the various IFTA member jurisdictions to the carrier's base jurisdiction. A carrier's base jurisdiction is the IFTA member jurisdiction where:

- a carrier's qualified motor vehicles are based for vehicle registration purposes;
- the operational control and operational records of those qualified motor vehicles are maintained or can be made available; and
- some travel actually occurs by qualified motor vehicles in the fleet.

A carrier need only obtain one IFTA fuel tax license for all of its qualified motor vehicles. The carrier will also need two IFTA decals for each qualified motor vehicle. Both the license and the decals must be obtained from the carrier's base jurisdiction. The IFTA license and decals issued by that jurisdiction are good in all IFTA member jurisdictions (states and provinces) for the calendar year. An IFTA- licensed carrier files one tax report each quarter with its base jurisdiction to report fuel taxes due for all the member jurisdictions in which it operates. The base jurisdiction is then responsible for remitting the taxes due the other jurisdictions and, in most cases, for doing a single audit of the carrier for all member jurisdictions. Under this system, the carrier's fuel tax reporting and record-keeping requirements are greatly reduced.

### **IFTA Member Jurisdictions**

Many states and provinces are already participating members of IFTA. Currently, the participating IFTA member jurisdictions include Alberta, Arizona, Arkansas, Colorado, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Manitoba, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Saskatchewan, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming. The following states and provinces are scheduled to begin participating on January 1, 1996: Alabama, California, Connecticut, Georgia, Maryland, Massachusetts, Michigan, New Brunswick, New York, Nova Scotia, Pennsylvania, Prince Edward Island, Quebec, South Carolina, Virginia and West Virginia. During 1996, other states and provinces are expected to join IFTA.

Fuel taxes that are due to states and provinces that are not participating IFTA jurisdictions cannot be reported on an IFTA tax return. These fuel taxes must continue to be reported separately to those states and provinces in accordance with their laws and regulations.

### **New York State as a Carrier's IFTA Base Jurisdiction**

If a carrier operates qualified motor vehicles in two or more IFTA member jurisdictions, the carrier must apply to its base jurisdiction for an IFTA license and decals. New York State is a carrier's base jurisdiction for the IFTA licensing of its fleet if:

- the carrier's qualified motor vehicles are registered for vehicle registration purposes in New York State;
- the operational control and operational records for those vehicles are maintained in New York or can be made available here; and
- some travel actually occurs by the vehicles in New York.

Beginning January 1, 1996, if a carrier has qualified motor vehicles that should be IFTA-licensed in New York but which are currently IFTA-licensed in another member jurisdiction, the carrier must obtain a New York IFTA license and decals for the vehicles. The carrier should not renew its IFTA license in the other jurisdiction and should no longer file an IFTA return with that jurisdiction.

Under the provisions of IFTA, different jurisdictions may have different statutory, exemptions from their respective fuel use taxes. Therefore, vehicles that are exempt from the New York fuel use tax may not be exempt from fuel taxes in other IFTA jurisdictions. New York based carriers with qualified motor vehicles in New York that are exempt from

the New York fuel use tax may still want to get a New York IFTA license and decals for the vehicles. A New York IFTA license will allow the carrier to operate the vehicles in other IFTA jurisdictions where they are not exempt from fuel taxes. The carrier will then report and pay any fuel taxes due in other IFTA jurisdictions to New York (as its base jurisdiction) and New York will forward those taxes to the other jurisdictions. If a carrier decides not to get a New York IFTA license for a vehicle, the carrier must purchase trip permits according to the laws of the other jurisdictions.

### **New York IFTA Licensing Procedures**

A carrier must file Form IFTA-1, *New York State International Fuel Tax Agreement (IFTA) License Application*, with the New York State Department of Taxation and Finance (Tax Department), to get a New York IFTA license and the decals needed for each qualified motor vehicle. There is no fee for a New York IFTA license. However, two decals are needed for each qualified motor vehicle at a decal fee of \$8 per vehicle (\$4 per decal). A carrier may purchase additional decals if it expects to add qualified motor vehicles to its fleet. However, no credit or refund of amounts paid for unused decals will be given. The license and decals are valid for the calendar year, January 1--December 31.

### **Fleet Consolidation**

If a carrier has more than one fleet of qualified motor vehicles and the fleets are based in more than one IFTA jurisdiction, the carrier may request to consolidate those fleets in a single base jurisdiction. Each of the jurisdictions where the fleets are based must agree to the consolidation. If a carrier wants to consolidate its fleets with New York as its base jurisdiction, the carrier must submit a written request to the Tax Department. The request must include a list of the jurisdictions where the fleets are located and the number of qualified motor vehicles in each fleet. The request should be attached to Form IFTA- 1, *New York State International Fuel Tax Agreement (IFTA) License Application*. The carrier should purchase decals for the total number of vehicles in the fleets. The Tax Department will request permission for the consolidation, on behalf of the carrier, from the other jurisdictions. The carrier will be notified of the approval or denial of its request. If the request for consolidation is denied, the carrier will be sent a New York IFTA license and decals for only those vehicles in the New York fleet. The balance of the decal fees will be refunded.

### **New York IFTA Reporting Requirements**

A carrier that has a New York IFTA license must file Form IFTA-100, *IFTA Quarterly Fuel Use Tax Report*, four times each year. In addition, Form IFTA-101, *IFTA Quarterly Fuel Use Tax Schedule*, must be completed and attached for each fuel type that is reported. The quarterly tax report reflects the tax due to (or credit due from) each member jurisdiction. If the balance of taxes and credits due results in a net tax due, only one payment need be made to the Tax Department for the net amount. If the net amount is a credit, the carrier may request a refund of that amount and will receive one check from the Tax Department. Any credit for which a refund is not requested will automatically carry over as a credit. Credits may be used against tax, interest or penalty due for the next eight calendar quarters.

The report (Form IFTA-100) is due on the last day of the month immediately following the close of the quarter for which it is being filed. Form IFTA-100 will be sent to all New York licensed IFTA carriers at least 30 days before each due date.

### **IFTA Licensing of Leased Qualified Motor Vehicles**

A leasing agreement should state which party, lessor or lessee, is responsible for reporting fuel use taxes. 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.

If a qualified motor vehicle is leased, without a driver, from a rental company that has an IFTA license and decals on the vehicle, the lessee is not required to obtain an IFTA license and decals for the vehicle. However, if the lease is for 30 days or more, the lessee may choose to obtain an IFTA license and decals for the vehicle. If the lease is for less than 30 days, the lessee may obtain an IFTA license and decals for the vehicles only if the leasing contract provides that the lessee will report and pay the fuel use taxes. In both instances, the lessee, as the licensee, will then be required to report and pay the fuel taxes. In these situations, the vehicle may be IFTA- licensed by both the lessor

and the lessee, and may have two sets of decals displayed on it.

If a qualified motor vehicle is leased from an independent contractor, the independent contractor is required to get an IFTA license and decals for the vehicle. However, if the lease is for 30 days or more, the lessor and lessee have the option of designating which of them will get the IFTA license and decals for the vehicle, and report and pay the fuel taxes.

### **IFTA Licenses Issued by Other Jurisdictions**

Beginning January 1, 1996, an IFTA license and decals issued by a base jurisdiction other than New York will satisfy a carrier's New York fuel use tax licensing requirements and will allow the carrier's vehicles to travel on New York public highways. The carrier will report and pay the New York fuel use tax it will owe after that date to its base jurisdiction-- just as it does for all other member jurisdictions. A carrier with an IFTA license must continue to report and pay the New York truck mileage tax on Form MT-903, *Highway Use Tax Return*.

### **Regional Fuel Tax Agreement (RFTA) Licenses**

A RFTA license does not satisfy New York fuel use tax licensing requirements. A RFTA license and decals will not be valid during 1996 for travel on New York public highways. A carrier with a RFTA license must have a New York highway use tax permit and sticker on each qualified motor vehicle. The carrier will continue to pay the New York truck mileage tax and fuel use tax on Form MT-903, *Highway Use Tax Return*.

### **Fuel Use Tax Trip Permits**

If a non-New York based carrier travels only occasionally in New York State and does not want to get a New York fuel use tax license or an IFTA license issued by its base jurisdiction, the carrier must purchase a fuel use tax trip permit for that vehicle's travel in New York. The trip permit exempts a carrier from reporting and paying the fuel use tax on the mileage traveled by the vehicle for the effective period of the permit.

If the vehicle is also subject to the truck mileage tax (Article 21), and the carrier does not want to get a highway use tax permit and sticker for the vehicle, a separate truck mileage tax trip permit must also be purchased for that vehicle's travel in New York. This trip permit exempts a carrier from reporting and paying the truck mileage tax on the mileage traveled by the vehicle for the effective period of the permit. A truck mileage tax trip permit is not required for travel in New York solely on the toll-paid portion of the New York State Thruway.

Fuel use tax trip permits and truck mileage tax trip permits may each be used for trips of up to 72 hours. The cost of each trip permit is \$25.

In most instances, a carrier will be subject to both the fuel use tax and the truck mileage tax for travel in New York. Therefore, the carrier will be required to purchase both a fuel use tax trip permit and a truck mileage tax trip permit.

Application for fuel use tax trip permits and truck mileage tax trip permits may be made to the Tax Department 30 days prior to travel into New York. The permits may also be purchased from a permit service company at any time prior to travel into New York. If a permit is purchased from a permit service company, the company will charge a fee for its service in addition to the cost of the permit.

### **Refunds of Fuel Use Tax Credits**

Beginning January 1, 1996, a carrier may request a refund of certain fuel use tax credits accrued under the previous fuel use tax in return periods that ended in 1994 and 1995. A carrier may get a refund of total fuel use tax credits accrued in these periods less the amounts of any credits that were previously refunded or used to offset tax due in a later period. A carrier should file Form MT-908, *Claim for Fuel Use Tax Credit Transition Refund*, within two years from the due date of the return on which the credit was accrued. Fuel use tax credits accrued in 1994 and 1995 for which a carrier does not claim a refund will be carried over and may only be used against tax due for the **eight calendar quarters** following the end of the return period in which the credit was accrued. For example, a credit accrued on a return for the period ending January 31, 1994, must be claimed against tax due no later than the quarter ending March 31, 1996.