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## **Summary of Enforcement Provisions – Highway Use Tax**

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### **Introduction**

As a carrier operating certain motor vehicles on the New York State public highways, you are subject to the New York State Highway Use Tax Law.

If you do not comply with the Highway Use Tax Law, the Tax Department may:

- deny you a certificate of registration to operate a motor vehicle in New York State, or
- suspend or revoke your certificate for any violation of the provisions of the highway use tax.

Failure to comply with the Highway Use Tax Law may also subject you to criminal fines, imprisonment, or both.

This bulletin provides an overview of the Highway Use Tax Law enforcement provisions.

### **Denial, suspension, or revocation of a certificate of registration**

After providing an opportunity for a hearing, the Tax Department may:

- deny an application for certificate of registration for any violation of the provisions, rules, or regulations of the highway use tax;
- deny an application for certificate of registration for failure to pay any amount due under any taxes and impositions administered by the Tax Department; or
- suspend or revoke a certificate of registration for any violation of the provisions, rules, or regulations of the highway use tax.

A certificate of registration may be denied, suspended, or revoked without a hearing for:

- failure to file a highway use tax return, or
- failure to pay any amount of highway use tax due.

An employee of the Tax Department or police officer may take possession of any certificate of registration and decal:

- that has been suspended or revoked, or
- is being used for a vehicle other than the vehicle that it was issued to.

### **Liens, seizures, and suspensions**

If you do not 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; and
- sell seized vehicles 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 your motor vehicles, trailers, semitrailers, dollies, and other devices.

**Criminal penalties**

<b>Miscellaneous violations</b>	
<b>If you:</b>	<b>the fine is:</b>
<ul style="list-style-type: none"> <li>• operate a vehicle <b>without</b> the proper highway use tax (HUT) or automotive fuel carrier (AFC) certificate of registration (operating without a decal affixed to the vehicle is presumptive evidence that a certificate of registration has not been obtained),</li> <li>• operate a vehicle with a decal that has been suspended or revoked or was issued for a motor vehicle other than the one on which it was affixed,</li> <li>• operate a vehicle with an actual gross weight or unloaded weight <b>above</b> that listed on the HUT or AFC certificate,</li> <li>• fail to deliver or surrender your certificate of registration or decal,</li> <li>• fail to keep required records of operations of motor vehicles, or</li> <li>• violate any other provision of the Highway Use Tax Law,</li> </ul>	<p>\$100 to \$250 upon the first conviction, and</p> <p>\$250 to \$500 or imprisonment for up to 10 days upon the second or subsequent conviction.</p>

<b>Tax fraud acts</b>
<p><b>Penalties for failing to pay tax</b></p> <p>You may be subject to fines and a jail sentence if, with intent to evade tax, you willfully fail to pay any tax. (Tax Law, sec. 1801(a)(7) and sec. 1802-1807)</p>
<p><b>Penalties for document and recordkeeping violations</b></p> <p>You may be subject to fines and a jail sentence if you:</p> <ul style="list-style-type: none"> <li>• willfully file or submit a return, report, statement, or other document that you know contains any materially false or fraudulent information, or omits any material information (Tax Law, sec. 1801(a)(2) and sec. 1802-1807); or</li> <li>• knowingly supply or submit false or fraudulent information in connection with any return, audit, investigation, or proceeding, or you willfully fail to supply information within the time required. (Tax Law, sec. 1801(a)(3) and sec. 1802-1807)</li> </ul>
<p><b>Penalties for miscellaneous tax fraud acts</b></p> <p>You may be subject to fines and a jail sentence if you:</p> <ul style="list-style-type: none"> <li>• fail to make, render, sign, certify, or file any tax return or report (Tax Law, sec. 1801(a)(1) and sec. 1802-1807); or</li> <li>• engage in any act to defraud the state or its political subdivisions or a government instrumentality within the state by false or fraudulent pretenses, representations, or promises as to any material matter in connection with highway use tax. (Tax Law, sec. 1801(a)(4) and sec. 1802-1807)</li> </ul>

## Civil fines

Before operating a motor vehicle for highway use tax purposes on the public highways of New York State, you must obtain a certificate of registration and decal for each motor vehicle subject to the highway use tax.

If you operate a motor vehicle without a certificate of registration or decal, after you are given due notice and an opportunity for a hearing, you will be liable for a civil fine of:

- \$500 to \$2,000 for a first violation, and
- \$1,000 to \$3,500 for a second or subsequent violation occurring within three years of a prior finding of violation.

## Other penalties and interest

You will be subject to interest, penalties, or both if you do not file a highway use tax return on time or pay the proper amount of tax due on your return.

If you:	the penalty is:
fail to file your return or pay tax on time,	10% of the tax due <b>plus</b> 1% for each additional month or part of a month, not exceeding 30%.
are required to file and you file a return <b>late</b> by more than 60 days,	\$100 or the amount of tax required to be shown on the return, whichever is less. (Tax Law, sec. 512(1)(a))

To compute the interest and penalty amounts:

- use the online [Penalty and Interest Calculator](#); or
- call the [Miscellaneous Business Tax Information Center](#).

If you do not pay tax on time due to fraud, in lieu of the penalties and interest indicated above, the penalty will be twice the amount of the tax due, plus interest.

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

### References and other useful information

**Tax Law:** Sections 512, 1815, and 1801-1807