

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

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Fuel Use Tax
June 21, 1996

Elimination of Fuel Use Tax on Local Transit Operations of Omnibuses

As of January 1, 1996, the fuel use tax (Article 21 -A of the Tax Law) is not imposed on the fuel used in the operation of an omnibus 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 a city having a population of more than one million inhabitants, or an agency of such a city.

An omnibus is used *in local transit service* if the omnibus provides a mass transit service (as distinguished from a charter, contract, school bus, sightseeing or other such service) by carrying passengers from one point in this state to another point in this state and:

- (1) regularly picks up or discharges passengers at their convenience or at bus stops on the street or highway, as distinguished from buildings or facilities used for bus terminals or stations; or
- (2) picks up and discharges passengers at bus terminals or stations, the distance between which is not more than seventy-five miles, measured along the route traveled by the omnibus.

Completing The Fuel Use Tax Return

International Fuel Tax Agreement (IFTA) Licensed Carriers

An omnibus carrier that has an IFTA license pays its New York fuel use tax on the IFTA return filed with its base jurisdiction. To ensure that it does not pay fuel use tax on fuel consumed in New York local transit, an IFTA carrier should exclude from New York taxable miles those miles traveled in local transit service in New York State. In addition, all fuel purchased tax-paid in New York that is consumed in New York local transit service must be excluded from New York tax paid gallons. However, the carrier must include all New York local transit service mileage when calculating the fleet's average miles per gallon.

The carrier may continue to apply for refunds of the excise tax, petroleum business tax, and sales tax paid on fuel purchased tax-paid in New York and consumed in New York local transit service.

Non-IFTA Carriers Subject to the New York Fuel Use Tax

An omnibus carrier not required to have an IFTA license computes its New York fuel use tax on Form MT-903-FUT, *Schedule for Fuel Use Tax*. This form must be filed with Form MT-903, *Highway Use Tax Return*. Miles traveled in local transit service in New York should not be

included in total miles traveled everywhere or total miles traveled in New York (lines I and 2 of Form MT-903-FUT). In addition, the number of gallons of fuel consumed in local transit service in New York should not be included in fuel used in operations everywhere (line 4 of Form MT903-FUT). All fuel that was purchased tax-paid in New York and consumed in New York local transit service must be excluded from New York tax-paid gallons.

The carrier may continue to apply for refunds of the excise tax, petroleum business tax, and sales tax paid on fuel purchased tax-paid in New York and consumed in New York local transit service.

Records Required

All omnibus carriers engaged in local transit service in New York must keep a daily vehicular trip record for each omnibus. The trip record must include:

- the vehicle identification number of the omnibus;
- the name of the omnibus carrier;
- the name of the owner of the omnibus if the omnibus is operated under a lease or other agreement;
- the type of automotive fuel used by the omnibus;
- the number of gallons of automotive fuel purchased for the omnibus;
- the state or Canadian province where the automotive fuel was purchased;
- the starting and ending date of each trip;
- the points of origin and destination for each trip;
- the route of travel;
- the beginning and ending odometer and hubodometer reading of the trip;
- the total trip miles;
- the total miles traveled in each state or Canadian province;
- the signature of each driver;
- the total number of gallons of automotive fuel consumed in local transit service in New York; and
- the number of miles attributable to local transit service in New York..

In addition, an omnibus carrier engaged in local transit service as described in the second paragraph on page one must also include in the trip record a list of each leg of the trip that is 75 miles or less (e.g., Albany to Hudson, Hudson to Poughkeepsie, etc.).

The daily mileage and gallonage figures must be totaled for each omnibus at the end of each month.