

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

TSB-M-78 (4)M
Truck Mileage Tax
August 17, 1978

Subject: "Double Wide" mobile homes

The following correspondence from our Law Bureau establishes the status of "double wide" mobile homes under the Highway Use Tax Law.

This is in reply to your letter in which you asked for my opinion as to the definition of a mobile home for purposes of the highway use tax, commonly referred to as the truck mileage tax, imposed by Article 21 of the Tax Law.

Your letter indicates that examiners from this Department advised that double-wide mobile homes manufactured by _____ were not mobile homes under the truck mileage tax and an assessment was issued on this basis. You state that such homes should be considered to be mobile homes for purposes of this tax because they have (i) a permanent frame attached to the body of the unit, (ii) a hitch designed for towing and (iii) an undercarriage and wheels.

Subdivision (6) of section 400-cc of the Executive Law defines a mobile home as:

"... a moveable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. 'Mobile home' shall mean units designed to be used exclusively for residential purposes, excluding travel trailers." (emphasis added).

A modular home or "factory manufactured home" is defined as:

"... a structure designed primarily for residential occupancy constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities intended or designed for permanent installation, or assembly and permanent installation, on a building site." (Executive Law, Sec. 400-c(a)).

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Based on these two definitions, the type of unit you have described in your letter appears to be a mobile home rather than a modular or factory manufactured home.

For purposes of the truck mileage tax, a motor vehicle includes, inter alia, any

"... self-propelled device, having a gross weight, alone, or in combination with any other motor vehicle, in excess of eighteen thousand pounds, and any trailer, semi-trailer, dolly, or other device drawn thereby and having a gross weight, alone, or in combination with any other motor vehicle, in excess of eighteen thousand pounds . . ." (Tax Law, Sec. 501(2)).

Therefore, it would appear that if a mobile home, either alone or in combination with the motor vehicle towing it, weighs in excess of 18,000 pounds it is subject to the truck mileage tax. But, the truck mileage tax regulations state that if a motor vehicle is totally exempt from the highway use permit requirements it is also exempt from the truck mileage tax (20 NYCRR 482.1). A motor vehicle is exempt from the highway use permit requirements when it is operated without a load under a dealer registration plate for purposes of delivery, repair or improvement thereof or installation of something thereon. The same is true of a motor vehicle operated without a load under a transporter plate for purposes of transportation or delivery thereof or moving in connection with making installations thereon or improvements thereto (20 NYCRR 473.7(b)). The unloaded weight of a motor vehicle is the actual weight of the vehicle plus, among other things, all equipment permanently attached to the vehicle (20 NYCRR 472.6(b)(3)).

It has, for some time, been the position of this Department that mobile homes are exempt from the truck mileage tax when they are transported without a load (clothing, supplies, etc.) under a dealer or transporter plate for the purpose of delivery from a manufacturer to a dealer. The mobile home does not lose its exemption if it has furnishings which are bolted to it or carried in cartons for later attachment. A mobile home which is loaded, i.e., carrying clothing and supplies, is not exempt.

Very truly yours,

PETER CROTTY
Deputy Commissioner and Counsel