

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in Tax Law section 171 subdivision First and Article 29-C, the First Deputy Commissioner of Taxation and Finance, being duly authorized to act due to the vacancy in the office of the Commissioner of Taxation and Finance, hereby readopts as an emergency measure and proposes as a permanent rule the following amendments to the Sales and Use and Other Miscellaneous Tax Regulations, as published in Chapter IV of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Section 1. Chapter IV of Title 20 of the Codes, Rules and Regulations of the State of New York is amended by adding a new Subchapter E to read as follows:

Subchapter E – Congestion Surcharge

Part 700

Section 700.1 Definitions

700.2 Scope

700.3 Registration and Renewal

700.4 Records to be Kept

SUBCHAPTER E – CONGESTION SURCHARGE

Section 700.1 Definitions. As used in this Part, unless otherwise expressly stated, the following terms are defined as follows:

(a) Commissioner means the Commissioner of the New York State Department of Taxation and Finance and/or his or her designee.

(b) Congestion surcharge means the surcharge imposed by Tax Law Article 29-C.

(c) Congestion zone means the geographic area of the city of New York, in the borough of Manhattan, south of and excluding 96th Street.

(d) Motor vehicle shall have the same meaning as the term is defined in Vehicle and Traffic Law section one hundred twenty-five.

(e) For-hire vehicle means a motor vehicle, other than an ambulance as defined by Vehicle and Traffic Law section one hundred-b and a bus as defined in paragraph thirty-four of subdivision (b) of Tax Law section eleven hundred one, carrying passengers for hire.

(f) Pool trip means transportation between two points that is provided to a passenger (or to a group of passengers that enter and exit a vehicle together per a single request for transportation) in a vehicle that may also simultaneously transport others in trips that are requested and charged separately. To qualify as a pool trip, it is not necessary that the vehicle transport two or more passengers or groups in simultaneous trips. Rather, it must be possible during the course of a trip that the vehicle will pick up and/or drop off another passenger or group that separately requested transportation. Whether a trip is a pool trip for purposes of the congestion surcharge is determined on a per-ride basis.

(g) Pool vehicle means a for-hire vehicle that is used to provide a pool trip.

(h) Regulatory agency means any entity in the state that regulates the provision of transportation in for-hire vehicles, including the owners, agents and drivers thereof.

(i) Person means an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or

representative capacity, whether appointed by a court or otherwise, any combination of individuals and any other form of unincorporated enterprise owned or conducted by two or more persons.

(j) Person liable for the congestion surcharge means a person liable for the payment of the congestion surcharge pursuant to Tax Law section twelve hundred ninety-nine-B.

Section 700.2 Scope. A congestion surcharge is imposed on intra-state transportation provided in for-hire vehicles that begins in, ends in, or passes through the congestion zone.

Section 700.3 Registration and Renewal. (a) Every person liable for the congestion surcharge must file with the Commissioner a properly completed application for a certificate of registration, except that persons liable for the congestion surcharge on no more than one trip in a single calendar month shall not be required to submit such an application. An application for a certificate of registration must be submitted electronically, on a form prescribed by the Commissioner, and must be accompanied by a nonrefundable fee of \$1.50. The Commissioner may refuse to issue a certificate of registration as provided in Tax Law section twelve hundred ninety-nine-C.

(b) An issued certificate of registration shall be valid for the term specified thereon, unless earlier suspended, revoked or made subject to mandatory re-registration as provided for in Tax Law section twelve hundred ninety-nine-C. Upon the expiration of the term stated in a certificate of registration, such certificate shall be null and void.

(c) Every holder of a certificate of registration must notify the Commissioner of changes to any of the information stated on the certificate, or of changes to any information contained in the application for the certificate of registration, including changes to any vehicle information. Such notification must be made on or before the last day of the last month of the calendar quarter in which a change occurs, and must be made electronically on a form prescribed by the Commissioner.

(d) Every person liable for the congestion surcharge that holds a certificate of registration shall have the opportunity, prior to the certificate's expiration, to renew it during a renewal period established by the Commissioner. To renew a certificate of registration, a complete application, in a form prescribed by the Commissioner, must be electronically submitted during the renewal period, and be accompanied by a nonrefundable fee of \$1.50. The Commissioner may refuse to renew a certificate of registration as provided in Tax Law section twelve hundred ninety-nine-C.

Section 700.4 Records to be Kept. (a) Every person liable for the congestion surcharge shall keep and maintain the following for all transportation subject to the congestion surcharge for which they are responsible:

1. A record of the vehicle used for the trip, including any license, permit or other type of number assigned (or required to be affixed) to the vehicle by a regulatory agency or, if none exists, the vehicle's license plate number and jurisdiction;
2. A record of the date, time and geographic location where each trip made by the subject vehicle begins and ends;
3. For each pool trip, records that identify the trip as a pool trip, and the location, date and time where each individual or group that separately requests a pool trip enters and exits the pool vehicle;
4. A record of the date, time and geographic location where the for-hire vehicle used for a trip enters and/or leaves the congestion zone, if applicable;
5. A record of all amounts collected for each trip, including fares, taxes, and surcharges (including the congestion surcharge); and
6. Any other record or information required by the Commissioner.

(b) Records of time required to be kept by this section must be kept to the nearest minute, except that for transportation provided in for-hire vehicles that use equipment or technology capable of keeping more accurate time records, such records shall be kept as accurately as such equipment or technology will allow.

(c) All records and information required to be kept and maintained by this section must, on request, be made available and electronically transmitted in a format acceptable to the Commissioner.

(d) Compliance with this section may be achieved using any system or equipment that is required to be used in for-hire vehicles by a regulatory agency, so long as such system or equipment is capable of collecting, storing and electronically transmitting all the records and information required by this section.

Dated: Albany, New York
February 12, 2019

Nonie Manion
First Deputy Commissioner of
Taxation and Finance