



Guide for Law Enforcement Officials

Highway Use Tax, Fuel Use Tax, and Motor Fuel Tax

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Introduction

The purpose of this guide is to help law enforcement officers and other public officials (such as district attorneys, municipal officers, judges, and magistrates) understand the enforcement of highway use tax, fuel use tax, and motor fuel excise tax laws.

Part 1: Highway use tax (HUT)

The highway use tax is a tax on motor carriers who operate certain motor vehicles on New York State public highways. Before operating a motor vehicle on the public highways, a carrier must obtain a certificate of registration (C of R) and decal for each motor vehicle subject to the highway use tax. New York State public highways include toll-paid portions of the New York State Thruway.

For certain vehicles exempt from the HUT C of R and decal requirements, see Part 3.

Certificates of registration (C of Rs)

The following vehicles operating in New York State **must** have one of these two C of Rs:

- A **HUT** C of R is required for any truck, tractor, or self-propelled vehicle with a gross weight (either alone or in combination) of more than 18,000 pounds.
- An automotive fuel carrier (**AFC**) C of R is required for any truck, trailer, semitrailer, or other attached device transporting automotive fuel having a gross weight (either alone or in combination) of more than 18,000 pounds.

A separate AFC C of R is **not** required for any tractor that has been issued a HUT C of R and is transporting automotive fuel trailers.

Gross weight means the:

- unloaded weight of the truck, tractor, or other self-propelled vehicle; plus
- unloaded weight of the heaviest trailer, semitrailer, dolly, or other device to be drawn by that motor vehicle; plus
- maximum load **to be carried or drawn** by the motor vehicle.

Note: Gross weight excludes the weight of the driver and a helper. For a tow truck, it excludes the weight of any vehicle that's being towed partly or wholly upon the towed vehicle's own wheels. Gross weight of a flatbed tow truck must include the weight of the heaviest vehicle being transported on the bed of the truck.

Automotive fuel includes diesel motor fuel (No. 1 diesel fuel, No. 2 diesel fuel, biodiesel, kerosene, fuel oil, or other middle distillate, and motor fuel suitable for operating a diesel engine), and motor fuel (gasoline, benzol, conventional blend stock for oxygenate blending, reformulated blend stock for oxygenate blending, E85, fuel grade ethanol that meets the ASTM International active standards

specification D4806 or D4814, or other product which is suitable for use in the operation of a motor vehicle engine).

Decals

A HUT/AFC decal must be affixed to each vehicle that is required to have a C of R to operate on New York State public highways as follows:

- HUT decals are required for all tractors and trucks (other than a truck that transports automotive fuel).
- AFC decals are required for trucks, trailers, semitrailers, or other attached vehicle that transports automotive fuel on New York State public highways.

A HUT/AFC decal must be securely and conspicuously affixed to each motor vehicle that it was issued to as follows:

- On a truck, tractor, or other self-propelled vehicle: on the body of the motor vehicle, which includes the bumper of the vehicle, as near as possible to the **front** registration plate.
- On a trailer or other non-self-propelled vehicle that is used to transport automotive fuel: on the body of the vehicle, which includes the bumper of the vehicle, as near as possible to the **rear** registration plate.

Temporary credential or receipt of application

Carriers may acquire HUT/AFC credentials to be used immediately if they:

- already have a HUT account and are enrolled in New York State's One Stop Credentialing and Registration (OSCAR) system, or
- use a permit service company approved by the Tax Department. A list of approved permit service companies may be obtained by contacting the Tax Department.

Carriers can order temporary HUT and AFC credentials online using the OSCAR Web site at www.oscar.ny.gov or through a permit service company approved by the Tax Department. Next, carriers should print Form TR-8, *Temporary Credential or Receipt of Application*, and carry it in the motor vehicle until a C of R and decal are issued by the Tax Department.

If a motor vehicle is found to be without the proper credentials, a citation should be issued under Tax Law section 1815(a)(1)(A)(i).

HUT trip C of R

Carriers may occasionally use HUT trip C of Rs. The trip C of R allows a carrier to operate in New York State until it expires at midnight of the third day after the date it was issued. The expiration date is printed on the C of R. This period cannot be extended by Saturdays, Sundays, or public holidays. Carriers should carry a copy of the C of R in the motor vehicle for which it was issued.

The trip C of R is not valid for any truck or trailer used to transport automotive fuel. HUT decals are not required for tractors and trucks using trip C of Rs.

Verification of HUT and AFC C of Rs

C of Rs do not have to be carried in the vehicles, but must be kept in the carrier's regular place of business. To verify that a vehicle has a valid C of R, contact the Tax Department's Permit Unit (see *Need help?*). For an exception, see *Intrastate carriers* on the next page.

Part 2: Fuel use tax/International Fuel Tax Agreement (IFTA)

New York State participates in the International Fuel Tax Agreement (IFTA) to administer and collect fuel use tax. All states (except Alaska and Hawaii) and all Canadian provinces participate in IFTA, which allows a motor carrier to report to a single base jurisdiction all the fuel use taxes owed to various jurisdictions.

Vehicles requiring IFTA licenses and decals

Qualified motor vehicles operating in more than one IFTA jurisdiction must have an IFTA license and decals to operate on New York State public highways.

Qualified motor vehicle means a motor vehicle (other than a recreational vehicle) used, designed, or maintained for transportation of persons or property, meeting **any** of the following:

- Two axles and a gross vehicle weight (or registered gross vehicle weight) exceeding 26,000 pounds (11,797 kilograms).
- Three or more axles, regardless of weight.
- Used in combination, and the gross vehicle weight of the combination is more than 26,000 pounds (11,797 kilograms).

IFTA licenses and decals

A carrier who operates any qualified motor vehicle in two or more IFTA jurisdictions must register for an IFTA license from its base jurisdiction. Any IFTA state or province may issue an IFTA license to carriers based in its jurisdiction, and such licenses are valid in New York State.

Jurisdictions issue a single IFTA license to a carrier for all its qualified motor vehicles, and two stickers (decals) for each of its qualified motor vehicles. The carrier **must make photocopies** of the license and carry a copy **in each vehicle**. Also, the carrier **must affix two decals** on each vehicle (one on each side of the cab). However, transporters, manufacturers, dealers, or drive-away operations may display the decals temporarily.

Fuel use tax trip permit

In place of an IFTA license, qualified motor vehicles occasionally use a fuel use tax trip permit, good for 72 hours, issued to the carrier by a permit service company. The permit may be in the form of a facsimile (fax), and the expiration date is printed on it.

IFTA temporary permit

A carrier may apply for a temporary IFTA permit through various permit services. The temporary permit in the form of a facsimile (fax) must be carried in the vehicle and is valid for 30 days. During that period, the Tax Department will issue the permanent IFTA decals.

Intrastate carriers

Motor vehicles operated **exclusively in New York State** are not required to have an IFTA license or decals. However, a copy of the carrier's HUT C of R should be carried in the vehicle as proof of New York State fuel use tax registration.

Part 3: Vehicles not requiring HUT/AFC certificates of registration (C of Rs) or IFTA credentials

The vehicles listed below are exempt from both the requirements for HUT/AFC C of Rs and IFTA credentials, provided they are used exclusively for the exempt activity:

- Omnibuses in local transit service in New York State.
Note: Omnibuses used for services other than local transit are exempt from HUT/AFC requirements, but must have IFTA credentials.

- Power shovels.
- Road building machines.
- Road rollers.
- Road sweepers.
- Sand spreaders.
- Snowplows.
- Tractor cranes.
- Truck cranes.
- Well drillers.
- Vehicles operating over a rural route engaged exclusively in the transportation of United States mail under contract.
- Vehicles under control of any agency or department of the United States, or any state, county, city, town, or municipality.
- Vehicles owned and operated by a farmer exclusively to transport the farmer's own agricultural products, pulpwood, or livestock (including packaged, processed, or manufactured products) that were originally grown or raised on the farmer's own farm(s) or orchards; or to transport supplies and equipment for use or consumption on the farmer's own farm(s).
- Vehicles that are properly authorized and used exclusively to transport household goods.
- Vehicles owned and operated by any fire company or department (as defined in Volunteer Firemen's Benefit Law section 3).

Special exemptions

Recreational vehicles are not required to have HUT/AFC C of Rs or IFTA credentials. *Recreational vehicles* are vehicles such as motor homes, pickup trucks with attached campers, and buses, when used exclusively for personal pleasure by an individual. To qualify as a recreational vehicle, the vehicle may not be used for commercial purposes.

Vehicles operating under dealer or transporter plates, in accordance with New York State Department of Motor Vehicle rules and regulations, are not required to have HUT/AFC C of Rs or IFTA credentials.

Part 4: Automotive fuel carrier (AFC) manifest requirements

Uniform manifest form requirements

Any carrier who transports automotive fuel into, through, or within New York State must possess a properly completed uniform manifest form describing each shipment (New York State Tax Law Article 12-A). A copy of the form must be in the possession of the vehicle's driver, and must be available for inspection.

If the automotive fuel originated **outside New York State**, carriers must use Form FT-960, *Uniform Manifest for Interstate (Importation) Movements of Motor Fuel and Diesel Fuel*, for all movements of the fuel when it is brought into the state or transported through the state. If the fuel originated **within New York State**, carriers must use Form FT-970, *Uniform Manifest for Intrastate Movements of Motor Fuel and Diesel Fuel*, instead.

The Tax Department may authorize the use of an alternative form, which must contain the same information as either Form FT-960 or FT-970. For a list of persons who may use approved alternative manifests, contact our Enforcement Division (see *Need help?*).

Seizure of fuel and motor vehicle

A motor vehicle and its contents may be seized if a person **not registered** as a distributor of automotive fuel with the Tax Department is importing such fuel into New York State for use, distribution, storage, or sale within the state.

In either of the following two instances, it is presumed that a person is **not registered**, and the motor vehicle and its contents may be seized:

- The driver of the motor vehicle does not have a Form FT-960, Form FT-970, or an approved alternative form.
- The driver has a Form FT-960, or an approved alternative form, and **all** the following are true:
 1. Form FT-960, lines 6, 7, and 8 (*Distributor's name, NYS distributor number, and Firm ordering transportation*) are blank, or the information is false or indicates that this is not a registered distributor; **and**
 2. Form FT-960, line 10 (*Terminal or site where automotive fuel was loaded*) is blank, or the information is false or indicates a location outside New York State; **and**
 3. Form FT-960, line 16 (*Terminal or site where automotive fuel is to be off-loaded*) is blank, or the information is false or indicates a location within New York State.

Any seized motor vehicle and its contents must be held and safely kept at a terminal or other storage facility.

All seizures must be reported to our Enforcement Unit during normal work hours or on the next business day (see *Need help?*). We encourage enforcement officers to call before making a seizure,

if possible. The following information must be given to the Tax Department:

1. inventory of all property seized;
2. name and address of the owner of all property seized;
3. name and address of the carrier;
4. location of the terminal or other facility where the property is stored;
5. exact location of the seizure, including county;
6. date and time of the seizure;
7. specific reason why the motor fuel was seized; and
8. origin and destination of the motor fuel, if known.

Importing/exporting transporter's license

All carriers who transport motor fuel into New York State for use, distribution, storage, or sale in New York State, or who transport motor fuel from a point in the state to a point outside the state, must be licensed as importing/exporting transporters.

The transporter's license number must appear on Form FT-960, line 3, whenever motor fuel is transported into New York State from a point outside this state.

Part 5: Citations

Citations may be written for the following violations (traffic infractions), misdemeanors, and felonies, under Tax Law Article 37, as shown in Table A and Table B below:

Table A

HUT and IFTA citations	Tax Law section	Type of offense
Operating a vehicle without the proper HUT or AFC certificate (operating without a decal affixed to the vehicle is presumptive evidence that a certificate of registration has not been obtained); or Operating a vehicle with a decal that has been suspended or revoked or that was issued for a motor vehicle other than the one on which it was affixed. (If a citation is issued for this reason, the decal should be removed from the vehicle.)	1815(a)(1)(A)(i)	Traffic infraction
Operating a vehicle with actual gross weight or unloaded weight above that listed on the HUT or AFC certificate.	1815(a)(1)(B)	Traffic infraction
Operating a vehicle without the proper IFTA license or decals, or with suspended or revoked license or decals.	1815(a)(1)(A)(ii)	Traffic infraction
Any other violation of the HUT or IFTA law or regulations.	1815(a)(1)(F)	Traffic infraction

Disposition of citations under section 1815

Violations of section 1815 are considered traffic infractions under subdivision (a)(3). However, these infractions are not under the jurisdiction of the Commissioner of Motor Vehicles, any hearing officer appointed by the commissioner, or any administrative tribunal authorized to hear and determine any traffic infractions.

Within 48 hours of the conviction of a person for any section 1815 violation, the trial court or clerk must certify the facts of the case in writing to:

NYS TAX DEPT
TDAB/FACCTS
W A HARRIMAN CAMPUS
ALBANY NY 12227-5501

Private delivery services – See Publication 55, *Designated Private Delivery Services*, if not using U.S. Mail.

Penalties for violating section 1815 are:

First conviction: fine of not less than \$100 or more than \$250.

Subsequent conviction: fine of not less than \$250 or more than \$500, or imprisonment for not more than 10 days.

If the conviction is for violating section 1815(a)(1)(A) (*improper or no documentation*) or 1815(a)(1)(B) (*excess weight*), the Tax Department will audit the carrier and assess any unreported taxes.

Table B

Transportation of automotive fuel citations	Tax Law section	Type of offense
Transporting automotive fuel without a properly completed Form FT-960, FT-970, or approved alternative form.	1812(d)	Misdemeanor
Any person not licensed as an importing/exporting transporter who does either of the following: <ul style="list-style-type: none"> • transports motor fuel that is imported into New York State for use, distribution, storage, or sale in the state. • exports motor fuel from a point in New York State to a point outside the state. 	1812-d	Misdemeanor
Any person not licensed as an importing/exporting transporter who offloads motor fuel into a facility in New York State where the fuel is being imported for use, distribution, storage, or sale in the state.	1812-d	Less than 2,900 gallons: misdemeanor 2,900 gallons or more: felony
Importing (or causing to be imported) diesel motor fuel into New York State by any person not registered as a distributor of diesel motor fuel.	1812-a	Less than 2,900 gallons: misdemeanor 2,900 gallons or more: felony
Importing (or causing to be imported) motor fuel into New York State for use, distribution, storage, or sale within the state by any person not registered as a distributor of motor fuel.	1812-b	Misdemeanor
<p>Disposition of citations under section 1812</p> <p>The dispositions and sentences imposed in relation to the above citations are the same as for misdemeanors and felonies under the Penal Law, except that the maximum fines are:</p> <ul style="list-style-type: none"> • \$10,000 for a misdemeanor committed by an individual. • \$20,000 for a misdemeanor committed by a corporation. • \$50,000 for a felony committed by an individual. • \$250,000 for a felony committed by a corporation. 		

Part 6: For more information

- Publication 538, *A Guide to Highway Use Tax and Other New York State Taxes for Carriers*
- Publication 536, *International Fuel Tax Agreement (IFTA): A Guide for New York State Carriers*
- Form FT-960, *Uniform Manifest for Interstate (Importation) Movements of Motor Fuel and Diesel Motor Fuel*, and its instructions
- Form FT-970, *Uniform Manifest for Intrastate Movements of Motor Fuel and Diesel Motor Fuel*, and its instructions

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

HUT/IFTA Permit Unit: (518) 457-6208
Enforcement Unit (Albany Office): (518) 457-0036
Enforcement Unit (NYC Office): (347) 390-7481
 (If you're not sure which office to call, call either one and you'll be referred.)



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.