

**Amendments to the Tax Law Regarding
Certificates of Registration for Highway Use Tax
Effective July 1, 2007**

General

Chapter 60 of the Laws of 2007 amended Article 21 of the Tax Law to eliminate the provisions requiring permits, tags, plates, and stickers for motor vehicles subject to the highway use tax (HUT). In their place, any truck, tractor, or other self-propelled vehicle, and any trailer, semi-trailer, or other attached device used to transport automotive fuel that was required to have a permit, tag, plate, or sticker under prior law must now have a certificate of registration. Chapter 60 also establishes a new civil penalty for any person who fails to obtain a certificate of registration. Other provisions of the Tax Law related to HUT generally remain the same but are amended for the transition to certificates of registration.

Beginning **July 1, 2007**, certificates of registration will be issued for all motor vehicles that are newly registered for HUT and for motor vehicles that require corrected or duplicate certificates of registration. A carrier may continue to use any currently valid 19th series HUT or automotive fuel carrier (AFC) permit ("permit") that was issued prior to July 1, 2007, provided that the permit is not suspended, revoked, or in need of correction based on an increase in the gross or unloaded weight of the motor vehicle. These permits will remain valid until the carrier obtains a certificate of registration, or until the Tax Department next requires the surrender of all outstanding certificates of registration and permits for renewal.

A certificate of registration (or permit) does not have to be carried in the motor vehicle, but must be kept in the carrier's regular place of business.

This memorandum explains the various amendments to the Tax Law but does not cover all aspects of HUT. For additional information, and to obtain Form TMT-1, *Application for Highway Use Tax and/or Automotive Fuel Carrier Certificates of Registration*, and other forms and instructions, visit www.nystax.gov on the Internet. To obtain a certificate of registration online, visit OSCAR (One Stop Credentialing and Registration) at www.oscar.state.ny.us.

Returns

Carriers are required to file Form MT-903, *Highway Use Tax Return*, on a monthly, quarterly, or annual basis depending on the amount of the preceding calendar year's tax liability. Beginning July 1, 2007, however, in determining that liability, a carrier is no longer required to add the fuel use tax to the HUT. Thus, the filing period will be based on the preceding year's HUT liability only. Under prior law, the amount of a carrier's preceding calendar year's HUT liability had to be added to the amount of the preceding calendar year's fuel use tax liability under Article 21-A of the Tax Law to determine whether a carrier must file on a monthly, quarterly, or annual basis. For details, see Form MT-903-I, *Instructions for Form MT-903*.

Certificate of registration requirements

As with the former permit requirements, in general, there are two types of certificates of registration: 1) a ***HUT certificate of registration*** is required for any truck, tractor, or other self-propelled vehicle with a gross weight in excess of 18,000 pounds, and 2) an ***AFC certificate of registration*** is required for any truck, trailer, semi-trailer, or other attached device transporting automotive fuel and having a gross weight in excess of 18,000 pounds. A separate AFC certificate of registration is **not** required for any tractor transporting automotive fuel trailers that has been issued a HUT certificate of registration.

As used above, *gross weight* means the actual unloaded weight of the truck, tractor, or other self-propelled vehicle plus the heaviest combined weight of any trailer, semi-trailer, dolly, or combination of attached devices plus the maximum load to be carried or drawn by the motor vehicle. The weight of the driver and a helper is not included.

Instead of using the gross weight of the vehicle, a carrier may elect to use the unloaded weight of the vehicle to determine its HUT liability and registration requirements. This election is made on the first HUT return (Form MT-903) filed by the carrier during the calendar year and may not be changed until the first HUT return is filed for the next calendar year. When the unloaded weight method is used, any truck with an unloaded weight of more than 8,000 pounds, any tractor with an unloaded weight of more than 4,000 pounds, and any trailer, semi-trailer or other attached device transporting automotive fuel having a gross weight in excess of 18,000 pounds must have the applicable certificate of registration.

Unloaded weight means the actual weight of the motor vehicle, including all permanently attached equipment necessary for its performance as a vehicle, necessary for its safety, used exclusively for the protection of its load, or used exclusively for loading or unloading the vehicle. The weight of the driver and a helper is not included.

Certificate of registration fees

The fee for a HUT or AFC certificate of registration is \$15 for a truck, tractor, or other self-propelled vehicle. The fee for an AFC certificate of registration is \$5 for a trailer, semi-trailer, or other attached device used for transporting automotive fuel.

Renewal of certificates of registration

The amendments provide that the Tax Department **may** require carriers to renew their certificates of registration **once a year**. Under prior law, the Tax Department could not require carriers to renew their HUT or AFC permits more often than once every three years.

At the time of renewal, new certificates of registration will be issued to replace any outstanding certificates of registration (and permits). The renewal fee for a truck, tractor, or other

self-propelled vehicle is \$4, and the renewal fee for a trailer, semi-trailer, dolly, or other attached device used for transporting automotive fuel is \$2.

Duplicate certificate of registration

In the event of loss, mutilation, or destruction of a certificate of registration (or permit), a new certificate of registration will be issued with duplicate information to replace the original for a fee of \$2.

Trip certificate of registration

Like the former trip permits, instead of obtaining a HUT certificate of registration, a carrier may obtain a *HUT trip certificate of registration* for a fee of \$25. The HUT trip certificate of registration allows the carrier to operate in New York State for 72 hours from the time of its issuance and relieves the carrier from having to file Form MT-903 and pay any tax related to the 72-hour period. No refund is allowed for a HUT trip certificate of registration, and a carrier may not apply for more than ten HUT trip certificates of registration during a calendar year. Copies of the HUT trip certificate of registration must be kept for four years. A HUT trip certificate of registration is not available for trucks, trailers, dollies, or other attached devices transporting automotive fuel.

License plate information

When applying for any certificate of registration, in addition to any other required vehicle information, **carriers must provide the license plate and state or Canadian province information for each motor vehicle.**

Corrected certificate of registration

If there is a change to the license plate information for any motor vehicle that has been issued a HUT or AFC certificate of registration, a carrier **must** submit a copy of the current certificate of registration indicating the corrected information. A carrier **is not required but may** submit a copy of the current permit indicating the license plate information. Upon the surrender of the certificate of registration (or permit) that was previously issued, a corrected certificate of registration will be issued at no charge.

If there is an increase in the gross or unloaded weight for any motor vehicle subject to HUT, a carrier **must** submit a copy of the current certificate of registration (or permit) indicating the corrected information. Upon the surrender of the certificate of registration (or permit) that was previously issued, a corrected certificate of registration will be issued at no charge.

If there is a decrease in the gross or unloaded weight of a motor vehicle, a carrier may apply for a corrected certificate of registration during the month of January at no charge. In other months, a carrier may cancel the certificate of registration (or permit) and apply for a new

certificate of registration. The fee for a truck, tractor, or other self-propelled vehicle is \$15. The fee for a trailer, semi-trailer, or other attached device used to transport automotive fuel is \$5.

Special permit for saddle- or full- mount mechanism eliminated

Under prior law, instead of obtaining HUT permits and decals, carriers engaged in the business of transporting motor vehicles by saddle- or full- mount mechanism had the option of obtaining special permits and decals. These provisions are eliminated. Beginning July 1, 2007, carriers no longer have this option, but must obtain certificates of registration for these motor vehicles.

Suspension, revocation, and denial of a certificate of registration

As with the former permit requirements, the Tax Department may, for cause, deny, suspend, or revoke any certificate of registration (or permit) after an opportunity for a hearing has been given to the carrier. A certificate of registration (or permit) may be denied, suspended, or revoked, without a hearing, for failure to file a return (Form MT-903) or failure to pay any amount due under highway use tax. Under the amendments, the Tax Department is given the additional authority to **deny** an application for a certificate of registration for failure to pay any amount due under **any** of the taxes and impositions administered by the Tax Department.

Enforcement provisions

Various enforcement provisions of the Tax Law related to HUT permits generally remain the same but are amended for the transition to certificates of registration. Carriers remain subject to penalties under section 1815 of the Tax Law for failure to apply for and obtain a certificate of registration but are no longer subject to any penalties for failure to have a permit, tag, plate, or stickers on or in the motor vehicle. In addition to any other penalties imposed under the Tax Law, any person who fails to obtain a certificate of registration (other than carriers that choose to rely on their current 19th series HUT or AFC permits) may be liable for a civil penalty between \$500 and \$2,000 for a first violation, and between \$1,000 and \$3,500 for a subsequent violation within three years following a prior finding of violation.

NOTE: A TSB-M is an informational statement of changes to the law, regulations, or Department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information presented in a TSB-M.