

Refunds of Highway Use Tax and Fuel Use Tax

Due to changes in the Highway Use Tax Law (Article 21), the Fuel Use Tax Law (Article 21-A), and the Carrier Tax (Article 13-A, section 301-h), motor carriers have four years instead of two years within which to claim refunds of:

- erroneous payments of taxes or fees,
- fuel use tax credits, and
- fuel use tax based on a carrier's alternative computation of the sales tax component of the fuel use tax rate.

The additional time to claim refunds is allowed for payments and credits for fuel purchased on and after January 1, 1994.

Refunds of Erroneous Payments

The period within which a motor carrier must claim a refund of an erroneous payment of fuel use tax, truck mileage tax, or fees was extended to four years from the date of the erroneous payment. Prior to this change in the law, the refund period was limited to two years from the date of the erroneous payment. This extended refund period applies to payments made on and after January 1, 1994. A claim for refund must be filed on Form DTF-406, *Claim for Refund*.

Refunds of Fuel Use Tax Credits

The period within which a motor carrier must claim a refund of a New York fuel use tax credit was extended from two years from the end of the reporting period from which the credit was derived, to 49 months from that date.

New York-Based IFTA Carriers

A carrier that has an International Fuel Tax Agreement (IFTA) license issued by New York State may claim a refund of any outstanding fuel use tax credit within 49 months following the end of the reporting period from which the credit was derived. In the alternative, the credit may be used to offset fuel use tax due on Form IFTA-100, *IFTA Quarterly Fuel Use Tax Report*, for any of the eight reporting quarters following the end of the quarter from which the credit was derived.

The amount of an unused credit is included in the total credit balance that is preprinted on the IFTA report for those succeeding eight quarters. A refund of a preprinted credit balance should be requested directly on the IFTA report. To obtain a refund of an unused credit that

is no longer included in the preprinted credit balance on the report, the carrier must request a refund by letter. This request must be made within 49 months from the end of the reporting period from which the credit was derived. The letter should separately list the period(s) from which the credit(s) was derived, and the amount of the credit(s) to be refunded. The letter must be mailed to: NYS Tax Department, TTTB/FACCTS, W A Harriman Campus, Albany New York 12227. If your records indicate a credit balance that does not agree with the balance shown on the IFTA report sent to you, please contact the Department for help in reconciling the amounts. Call our Business Tax Information Center at 1 800 972-1233 for assistance. If an outstanding credit is not used within eight quarters to offset fuel use tax liability, a refund may still be obtained within 49 months. If a refund claim is not filed within 49 months, such unused credit will be forfeited.

For example, ABC Trucking Company accrued a fuel use tax credit of \$100 on Form IFTA-100, filed for the first quarter of 1996. The \$100 credit will be carried forward and shown on each of ABC's IFTA-100 reports filed for the eight succeeding reporting quarters, or until the credit is used to offset tax due, or a refund of the credit is claimed on a report. If the credit is not used to offset tax due or ABC does not claim a refund of the credit on a report filed for any of the eight succeeding quarters, ABC must claim a refund of the credit by April 30, 2000. If ABC fails to claim a refund by April 30, 2000, its right to the \$100 is forfeited.

IFTA Carriers Based Outside New York

An IFTA-licensed carrier based in a jurisdiction other than New York may claim a refund of a New York fuel use tax credit accrued in a reporting period prior to the carrier's participation in IFTA (for purposes of payment of New York fuel use tax), for fuel purchased on and after January 1, 1994. The refund must be claimed within 49 months following the end of the reporting period from which the credit was derived. A refund of a credit for fuel purchased in 1994 is claimed on Form MT-908, *Claim for Fuel Use Tax Transition Refund (For Fuel Purchased in 1994)*. A refund of a credit for fuel purchased in 1995 or 1996 is claimed on Form MT-907, *Claim for Fuel Use Tax Refund (For Fuel Purchased on and After January 1, 1995)*.

Fuel Use Tax Refunds - Alternative Tax Rate

An IFTA carrier, regardless of its base jurisdiction, may claim a refund of New York fuel use tax based on the carrier's own computation of the sales tax component of the New York fuel use tax rate. The refund is the difference between the New York fuel use tax paid on its IFTA report and the amount of fuel use tax that is due based upon the carrier's computation of the sales tax component using the carrier's actual average price per gallon of fuel. The claim for refund must be filed on Form IFTA-115, *Alternative Tax Rate Claim for Fuel Use Tax Refund*, within 49 months following the end of the reporting period for which the refund is claimed.