

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

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Article 13-A
July 1, 1994

Reimbursement of Petroleum Business Tax for Omnibus Carriers or Nonpublic School Operators

Omnibus carriers and nonpublic school operators may claim a reimbursement of the Article 13-A petroleum business tax on certain uses of motor fuel and diesel motor fuel purchased on or after April 1, 1992. (A reimbursement of the Article 12-A tax on motor fuel and diesel motor fuel may also be available, see Article 12-A section on page 3 of this notice.)

Section 282.9 of the Tax Law defines the term omnibus carrier as "every person engaged in operating an omnibus line subject to the supervision of the state department of public service under article three-a of the public service law, including every person operating omnibuses used for the transportation of school children under a contract made pursuant to the provisions of the Education Law." (The supervision provisions under article three-a of the public service law cited above have since been recodified in the New York State Transportation Law).

Section 282.11 of the Tax Law defines the term nonpublic school operator as "any nonpublic elementary or secondary school which owns or leases and operates any vehicle solely and exclusively for its purposes."

Omnibus Carriers

Omnibus carriers are eligible for a reimbursement of the Article 13-A tax included in the purchase price of motor fuel and diesel motor fuel purchased in New York State provided the fuel is consumed in New York State in:

- (1) local transit service pursuant to a certificate of public convenience and necessity issued by the New York State Commissioner of Transportation or by the Interstate Commerce Commission of the United States, or pursuant to a contract, franchise or consent between the carrier and a city having a population of more than one million inhabitants or an agency of such a city, or
- (2) the transportation of school children under a contract made according to the provisions of the Education Law.

An omnibus is used in local transit if the omnibus provides a mass transit service (as distinguished from a charter, contract, school bus, sightseeing or other such service) by carrying passengers from one point in this state to another point in this state and:

- (a) regularly picks up or discharges passengers at their convenience or at bus stops on the street or highway, as distinguished from buildings or facilities used for bus terminals or stations; or
 - (b) picks up and discharges passengers at bus terminals or stations, the distance between which is not more than seventy-five miles, measured along the route traveled by the bus.
- Any omnibus carrier engaged in local transit service described in paragraph (a) above, must keep a daily record of its operations in the form of a vehicular trip record for each bus listing vehicle number, gallons of motor fuel or diesel motor fuel consumed and the number of miles attributable to local transit. The daily gallonage figures must be totaled for each vehicle at the end of each month.

- Any omnibus carrier engaged in local transit service described in paragraph (b) above, must keep a daily record of its operations in the form of a vehicular trip record for each bus. The trip record must include:
 - the vehicle number
 - the date of each trip
 - the legs of the trip for which reimbursement is claimed (e.g., Albany to Hudson, Hudson to Poughkeepsie, etc.)
 - total miles for each trip
 - number of miles attributable to local transit (mileage upon which reimbursement is computed)
 - the number of gallons of motor fuel or diesel motor fuel consumed

Daily mileage and gallonage figures must be totaled for each bus at the end of each month.

- Any omnibus carrier engaged in the transportation of school children under a contract made pursuant to the Education Law must keep a daily record of its operations in the form of a vehicular trip record for each bus listing the vehicle number, gallons of motor fuel or diesel motor fuel consumed. The daily gallonage figures must be totaled for each vehicle at the end of each month.

For omnibus carriers, the reimbursement of the Article 13-A petroleum business tax is limited to that *New York mileage* attributable to local transit service or to the transportation of school children under a contract made pursuant to the Education Law. No other mileage is eligible for the reimbursement to omnibus carriers.

Nonpublic School Operator

A nonpublic school operator is eligible for reimbursement of the Article 13-A tax included in the price of motor fuel and diesel motor fuel purchased in New York State and consumed in activities directly related to education, such as the transportation of students to and from school or on field trips related to a course of study.

In order to substantiate a claim for reimbursement, a nonpublic school operator must keep a daily record of its operations in the form of a vehicular trip record for each vehicle. The trip record must list the vehicle number and the number of gallons of motor fuel or diesel motor fuel consumed in education related activities. The daily gallonage figures must be totaled for each vehicle at the end of each month.

Article 13-A tax included in the purchase price of motor fuel or diesel motor fuel used by nonpublic school operators in the operation of motor vehicles in activities other than those which are education related is not eligible for reimbursement.

Reimbursement Claims

All claims for reimbursement of Article 13-A tax by omnibus carriers and nonpublic school operators are limited to tax actually passed through to or absorbed by the applicant that can be substantiated by purchase invoices. Unsubstantiated claims will be denied. Reimbursement claims must cover a complete calendar month. No reimbursement will be made with respect to purchases made more than two years before the date of filing the claim.

Sales invoices, delivery tickets or monthly statements showing name and address of dealer, name and address of claimant, date of purchase (month, day and year), type of fuel, number of gallons purchased and the fact that the tax was included in the purchase price are required to be attached to the claim submitted. After the claim has been processed, the evidence of purchase will be returned provided a stamped self-addressed envelope with sufficient postage is submitted.

Records are required to be kept for three years from the date of purchase of the fuel for which reimbursement is claimed. These records must be available during this period for audit by the Department of Taxation and Finance. The Department, however, may determine that it made an erroneous or excessive reimbursement payment to a claimant within two years after the date of such erroneous or excessive payment. A claimant, therefore, may wish to preserve records relating to a reimbursement claim for a period longer than three years from the date of purchase.

Article 13-A Reimbursement Application Forms

Form FT-400 - Application for Reimbursement of the NYS Petroleum Business Tax on Diesel Motor Fuel for an Omnibus Carrier/Nonpublic School Operator - should be used to claim a reimbursement of Article 13-A tax included in the purchase price of diesel motor fuel.

Form FT-401 - Application for Reimbursement of the NYS Petroleum Business Tax on Motor Fuel for an Omnibus Carrier/Nonpublic School Operator - should be used to claim a reimbursement of Article 13-A tax included in the purchase price of motor fuel.

Article 12-A

Article 12-A of the New York State Tax Law provides for reimbursement of the excise taxes on motor fuel and diesel motor fuel consumed by omnibus carriers in the operation of an omnibus in local transit in New York State and consumed by nonpublic school operators in activities related to education. A partial reimbursement of the Article 12-A excise tax is allowed omnibus carriers who transport school children under a contract made pursuant to the Education Law. See Forms FT-946 and TP-164.14 for more information regarding Article 12-A reimbursements.