

Initiation of Waste Tire Management Fee on Sales of New Tires

Beginning September 12, 2003, tire retailers, including car dealers, must collect a fee of \$2.50 on most new tires sold at retail within New York State. Retailers must file returns for each calendar quarter on Form MT-170, *Waste Tire Management Fee Return*, and remit \$2.25 for each tire sold. This allows each tire retailer to retain 25 cents for each tire sold to cover administrative costs.

This fee is imposed by section 27-1913 of the Environmental Conservation Law and will be used for waste tire management and recycling. The Department of Taxation and Finance is responsible for administering the collection of the fee.

The waste tire management fee expires on December 31, 2010. A return for the final quarter will be due January 31, 2011. However, if a tire retailer goes out of business before then, the retailer must file a final return within 30 days of ceasing operation.

General information

The fee applies to new tires sold for use on cars, trucks, motor homes, buses, and trailers, or any other vehicle that could qualify for registration under section 401 of the Vehicle and Traffic Law. This includes nearly all self-propelled or towed vehicles that could be registered to operate on a public highway for any reason. Refer to *Tires for exempt vehicles* below for information on vehicles that are exempt.

The fee also applies to all new tires sold by a dealer of new or used vehicles. Consequently, when a dealer sells a vehicle, the fee must be collected on all new tires sold with the vehicle, including spare tires, whether they are full-size or for emergency-use only.

The fee does not apply to recapped or resold (used) tires. Nor does it apply to mail-order, phone-order, or Internet sales where the tires are delivered to the purchaser by the U. S. Postal Service or a common carrier.

Retail sale

Every sale of a new tire will be treated as a retail sale and subject to the fee unless the retailer has documentation to establish the sale is not subject to the fee. Refer to *Exempt sales* below.

Leased or rented vehicles

For vehicles that are purchased to be leased or rented, the lessor, not the person renting or leasing the vehicle, is responsible for paying the fee. Consequently, when a rental or leasing company purchases a vehicle, it is responsible for paying the fee. However, when new replacement tires are purchased for a rented or leased vehicle, the purchaser of the tires is responsible for paying the fee. Consequently, when a lessee purchases new replacement tires for a leased vehicle, the lessee is responsible for paying the fee.

Sales invoices

The tire retailer or vehicle dealer must separately state the waste tire management fee on any sales slip, invoice, receipt, contract or other statement or memorandum of the price given to a customer. Any other fee, such as a used tire disposal fee, must be included in the published selling price of the new tire.

Sales tax

The waste tire management fee is not part of the receipts subject to sales tax. However, any additional management and recycling costs of the retailer included in the selling price of the new tire are part of the receipts subject to sales tax.

Exempt sales

The following sales of new tires are not subject to the waste tire management fee.

Governmental entities and certain exempt organizations

Sales to the following are exempt from the waste tire management fee:

- the state of New York, its agencies, instrumentalities and political subdivisions;
- the United States, its agencies and instrumentalities;
- limited dividend housing companies exempt under section 93(1) of the Private Housing Finance Law; and
- nonprofit property and casualty insurance companies exempt under section 6707 of the Insurance Law.

Tires for resale

New tires that are purchased solely for the purpose of resale are not subject to the waste tire management fee at the time of purchase for resale. New tires purchased by a used car dealer for installation on a vehicle that will be sold by the dealer is a purchase for resale and is not subject to the waste tire management fee at the time of purchase by the used car dealer.

Similarly, a new car dealer purchasing new tires for installation on a new vehicle prior to delivery to a customer, is purchasing for resale. In either instance the car dealer would collect the waste tire management fee on the sale of the vehicle unless the purchaser is exempt.

Tires for exempt vehicles

New tires purchased for use on the following vehicles are not subject to the fee:

- motorcycles, motor scooters and mopeds,
- all terrain vehicles (ATVs),
- limited use vehicles (low speed vehicles, as defined by Vehicle and Traffic Law section 121-c),
- electrically-driven mobility assistance devices operated or driven by a person with a disability, and
- vehicles which run only upon rails or tracks.

Documentation of exempt sales

Persons purchasing new tires either for resale or installation on an exempt vehicle, must get Form MT-171, *Waste Tire Management Fee, Exempt Purchase Certificate*, from the Tax Department, complete the form and give it to the retailer at the time of purchase.

Governmental entities exercise their exemption by issuing governmental purchase orders, other appropriate governmental documents, or Form MT-171, *Waste Tire Management Fee, Exempt Purchase Certificate*.

Limited dividend housing companies, and nonprofit property/casualty companies exercise their exemption by providing the tire retailer with a copy of their sales tax exemption letter issued to them by the Tax Department.

Returns

The tire retailer must file the return with the Tax Department on Form MT-170. The returns are due by the last day of the month following the close of each quarter. When a tire retailer has more than one location within the state, it must file a combined return for all locations.

Because the new law takes effect on September 12, 2003, to reduce administrative costs for the state and retailers, the first return will cover the period September 12, 2003, through December 31, 2003. This return will be due January 31, 2004.

A tire retailer that ceases selling tires is required to file a final return within 30 days of ceasing such operation.

TSB-M-03(3)M
Miscellaneous Tax -
Waste Tire
Management Fee
August 15, 2003

Additional requirements under the Environmental Conservation Law

The Environmental Conservation Law requires that a sign measuring at least 8 ½ inches by 14 inches be prominently displayed by the tire retailer. The sign must contain the following language:

New York State Law requires us to accept and manage waste tires from vehicles in exchange for an equal number of new tires that we sell or install. We are required to charge a separate and distinct waste tire management and recycling fee of \$2.50 for each new tire we sell. Any additional tire management recycling costs are included in the advertised price of the new tire.