

DEPARTMENT OF TRANSPORTATION

Adoption of Chapter 19-107
Hawaii Administrative Rules

December 19, 1986

SUMMARY

Chapter 19-107, Hawaii Administrative Rules,
entitled "Enforcement of the Federal Heavy Vehicle Use
Tax", is adopted.

TITLE 19 DEPARTMENT OF TRANSPORTATION

SUBTITLE 4 HIGHWAYS DIVISION

CHAPTER 107

ENFORCEMENT OF THE FEDERAL HEAVY VEHICLE USE TAX

§19-107-1	Purpose; objective
§19-107-2	Definitions
§19-107-3	Applicability
§19-107-4	Documents to be submitted prior to registration
§19-107-5	Taxable gross weight
§19-107-6	Federal heavy vehicle use tax exempt certification
§19-107-7	Proof of payment
§19-107-8	Exception for vehicles recently acquired
§19-107-9	Clearance certificate
§19-107-10	State-county responsibilities
§19-107-11	State office responsible for program; limitation of program

§19-107-1 Purpose; objective. The purpose of this chapter is to implement and carry out federal regulations relating to enforcement of the federal heavy vehicle use tax. The objective is to obtain evidence of proof of payment of the federal heavy vehicle use tax for vehicles subject to the tax before those vehicles are lawfully registered in the State. [Eff JAN 18 1987] (Auth: HRS §§264-23, 286-16, 286-18) (Imp: 23 U.S.C. §141(d); 23 C.F.R. Part 669; 26 C.F.R. Part 41)

§19-107-2 Definitions. As used in this chapter, unless the context clearly indicates otherwise:
 "County" means the county of Hawaii, the city and county of Honolulu, the county of Kauai, or the county of Maui, as appropriate.

"Customarily used" means a commonly used mode and that a semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if the vehicle is equipped to tow such semitrailer or trailer.

"Director" means the director of the State department of transportation or his duly authorized representative.

"Federal heavy vehicle use tax" or "FHVU tax" means the use tax imposed by section 4481 of the Internal Revenue Code of 1954, as amended.

"Highway motor vehicle" means any truck or bus that is propelled by its own motor and is designed to carry a load over public highways.

"Net weight" of a vehicle means the actual weight of the vehicle, as used for motor vehicle registration purpose.

"Semitrailer" means a trailer so constructed that a substantial part of its weight rests upon the truck-tractor by which it is drawn.

"State" means the State of Hawaii.

"Trailer" means a vehicle designed for carrying persons or property and for being drawn by a motor vehicle.

"Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

"Truck-tractor" means a truck designed and used primarily for drawing other vehicles and not so constructed as to carry a load to other than a part of the weight of the vehicle and load so drawn.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, but excludes devices moved by human power or devices used exclusively upon stationary rails or tracks and mopeds. [Eff JAN 16 1987]
(Auth: HRS §§264-23, 286-16, 286-18) (Imp: 23 U.S.C. §141(d); 23 C.F.R. Part 669; 26 C.F.R. Part 41)

§19-107-3 Applicability. This chapter shall apply to all highway motor vehicles with net weight of over eight thousand pounds, except vehicles owned by the United States, the State, or any political subdivision of the State. [Eff JAN 16 1987]
(Auth: HRS §§264-23, 286-16) (Imp: 26 C.F.R. §§41.4483-1, 41.6001-2)

19-107-4 Documents to be submitted prior to registration. Except as provided in section 19-107-8, the registered owner of a vehicle subject to this chapter under section 19-107-3 shall submit the "Federal Heavy Vehicle Use Tax Exempt Certification" (DOT 4-705) pursuant to section 19-107-6, or the "proof of payment" pursuant to section 19-107-7, or both of these documents when both categories of vehicles are involved, to the office specified in section 19-107-11 prior to registering the highway motor vehicle with the county. If these documents are not submitted prior to notification by the county that a clearance certificate is required, the registrant shall obtain a clearance certificate pursuant to section 19-107-9 from the office specified in section 19-107-11 prior to registering the highway motor vehicle with the county. Any delay in submission of the required document may result in the delay of such registration.
[Eff JAN 18 1987] (Auth: HRS §§264-23, 286-16)
(Imp: 26 C.F.R. §41.6001-2)

§19-107-5 Taxable gross weight. (a) The taxable gross weight of a vehicle is the sum of:

- (1) The actual unloaded weight of the vehicle fully equipped for service;
- (2) The actual unloaded weight of any trailer or semitrailer fully equipped for service that is customarily used in combination with the vehicle; and
- (3) The weight of the maximum load customarily carried on the vehicle and on any trailer or semitrailer used in combination with the vehicle.

(b) For a bus the taxable gross weight is the actual unloaded weight plus one hundred and fifty pounds for each seating unit provided for passenger and driver. [Eff JAN 18 1987] (Auth: HRS §§264-23, 286-16) (Imp: 26 C.F.R. §41.4482(b)-1)

§19-107-6 Federal heavy vehicle use tax exempt certification. (a) The registered owner of a vehicle subject to this chapter with taxable gross weight of less than fifty-five thousand pounds shall execute the "Federal Heavy Vehicle Use Tax Exempt Certification" (DOT 4-705, HWY-S 9/86) form, a copy of which is located at the end of this chapter and made a part of this section, and shall provide all data requested

on the form. The completed form shall be submitted to the office specified in section 19-107-11.

(b) The certification shall be valid for 5 years or until June 30 of the year of the renewal period as defined in subsection (c) whichever is sooner, except:

(1) When a vehicle listed on the certification changes its customary mode of operation and becomes subject to the FHVU tax, the change shall be reported in a letter submitted to the office specified in section 19-107-11 within ten days of the change in use of the vehicle;

(2) When there is an addition of a new or used vehicle subject to the certification requirements, a supplemental certification covering only the addition shall be executed using the "Federal Heavy Vehicle Use Tax Exempt Certification" form. The executed certification shall be submitted to the office specified in section 19-107-11 before the vehicle can be registered with the county, except where the motor vehicle qualifies under section 19-107-8.

(c) The period of the certification shall expire and a new certification shall be executed during years ending in "one" and "six", for example 1991 and 1996 and shall be effective for the period beginning July 1 of that year and ending on June 30, five years hence. This renewal certification, shall be submitted to the office specified in section 19-107-11, by July 1 of that year. [Eff JAN 18 1987] (Auth: HRS §§264-23, 286-16) (Imp: 26 C.F.R. §41.6001-2)

§19-107-7 Proof of payment. (a) The registered owner of a highway motor vehicle with taxable gross weight of fifty-five thousand pounds or more shall submit proof of payment of the FHVU tax annually to the office specified in section 19-107-11 before the vehicle can be registered with the county. The term "proof of payment" shall be considered to refer in appropriate cases to proof of suspension of such tax under subsection 4483-3, Internal Revenue Code of 1954, as amended.

(b) The proof of payment required in subsection (a) shall consist of:

- (1) Receipted Schedule 1 (Form 2290) that is returned by the Internal Revenue Service (IRS) to a taxpayer who files the tax return, or a photocopy of that receipted Schedule 1;
- (2) In lieu of a receipted copy for the payment of tax, a photocopy of Schedule 1 (Form 2290) that was submitted to the IRS plus a photocopy of both sides of the cancelled check showing payment of taxes and endorsement by IRS or other evidence of payment;
- (3) In lieu of receipted copy for suspension of tax, photocopies of Schedule 1 (Form 2290) and the signed and dated "Statement(s) in Support of Suspension of Tax", page 2, Form 2290 which was submitted to IRS;
- (4) If a Schedule 1 which does not include a list of vehicle identification numbers is submitted as proof of payment, the Schedule 1 shall be accompanied by a written statement listing the vehicle sought to be registered and a statement that the FHVU tax applicable to the vehicle has been paid. The written statement shall be signed by the taxpayer whose name appeared on the Schedule 1.

(c) Any proof of payment presented under this section shall relate to tax paid (or suspended) for the taxable period which includes the date that the county received the application for registration; except that for application for registration received during the months of July, August, or September, proof of payment for the immediately preceding taxable period may be used to verify payment of the tax.

[Eff JAN 16 1987] (Auth: HRS §§264-23, 286-16)
(Imp: 26 C.F.R. §41.6001-2)

19-107-8 Exception for vehicle recently acquired. The county may register a highway motor vehicle without proof of payment if the person registering the vehicle presents the original bill of sale (or other document evidencing transfer) indicating that the vehicle was purchased by the owner either as new or used vehicle during the preceding sixty days before the date that the county receives the application of registration of that vehicle.

[Eff JAN 16 1987] (Auth: HRS §§264-23, 286-16)
(Imp: 26 C.F.R. §41.6001-2)

§19-107-9 Clearance certificate. (a) When the vehicle registration renewal form issued by the county indicates that a clearance certificate is required, the registrant shall obtain a clearance certificate from the State prior to registering the highway motor vehicle with the county.

(b) In order to obtain the clearance certificate, the registered owner shall submit the "Federal Heavy Vehicle Use Tax Exempt Certification" (DOT 4-705) or proof of payment, or both if applicable, covering the vehicles to be registered to the office specified in section 19-107-11.

(c) The "clearance certificate" (DOT 4-708, HWY-S 10/86), a copy of which is located at the end of this chapter and made a part of this section, shall be completed by the highways division, department of transportation and signed by the individual duly authorized by the director. [Eff JAN 16 1987]
(Auth: HRS §§264-23, 286-16) (Imp: 26 C.F.R. §41.6001-2)

§19-107-10 State-county responsibilities. (a) The State and county shall implement and maintain an automated information system and records to evidence the meeting of the objective of this chapter.

(b) The State shall be responsible for:

- (1) Overall coordination and monitoring of the program for enforcement of the federal heavy vehicle use tax;
- (2) Maintaining supporting documentation and records for evaluating compliance with 23 U.S.C. §141(d) by the Federal Highway Administration;
- (3) Receiving from registered owners of highway motor vehicles subject to this chapter the documents required by sections 19-107-6 and 19-107-7;
- (4) Providing data obtained from paragraph (3) to the county for the purpose of establishing and updating the county's motor vehicle registration file with data to facilitate the registration of highway motor vehicles in compliance with this chapter;

- (5) Providing the county with notice to send to the owner of a vehicle subject to this chapter, when done in conjunction with registration renewal;
 - (6) Executing the "clearance certificate";
 - (7) Executing the annual certification for compliance to be submitted to the Federal Highway Administration.
 - (c) The county shall be responsible for:
 - (1) Maintaining an accurate motor vehicle registration file and updating that file with data to ensure compliance with this chapter;
 - (2) Registering a highway motor vehicle subject to this chapter only upon:
 - (A) Data provided by State pursuant to subsection (b)(4);
 - (B) Receipt of "clearance certificate" covering the vehicle pursuant to section 19-107-9; or
 - (C) Receipt of bill of sale (or other document evidencing transfer) pursuant to section 19-107-8;
 - (3) Providing the State access to the motor vehicle registration file upon written request by the director;
 - (4) Maintaining the documents received from the registrant with respect to section 19-107-8.
- [Eff JAN 10 1987] (Auth: HRS §§264-23, 286-16) (Imp: 23 U.S.C. §141(d); 23 C.F.R. Part 669; 26 C.F.R. Part 41)

§19-107-11 State office responsible for program; limitation of program. (a) The staff services office, highways division, department of transportation is the office responsible for the program on enforcement of the federal heavy vehicle use tax. However, its enforcement function is limited to carrying out the objective specified in section 19-107-1. Any questions relating to the applicability of the tax and the filing of the tax return (Form 2290) shall be directed to the Internal Revenue Service, U. S. Department of the Treasury.

§19-107-11

(b) The certification and letter of change in taxable status of a vehicle required by section 19-107-6 and the proof of payment required by section 19-107-7 shall be submitted to:

Staff Services Office, Highways Division
Aliiaimoku Hale, Room 514
869 Punchbowl Street
Honolulu, HI 96813

(c) The blank certification form (DOT 4-705) and clearance certificate may be obtained from the office shown in subsection (b) and:

(1) For vehicles registered in the County of Hawaii only

Hawaii District Office
50 Makaala Street
Hilo, Hawaii 96720
Phone: 935-3347

(2) For vehicles registered in the County of Kauai only

Kauai District Office
3060 Eiwa Street
Lihue, Hawaii 96766
Phone: 245-4461

(3) For vehicles registered in the County of Maui only

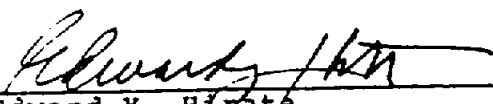
Maui District Office
650 Palapala Drive
Kahului, Hawaii 96732
Phone: 877-5061

[Eff JAN 18 1987] (Auth: HRS §§ 264-23, 286-16) (Imp: 23 U.S.C. §141(d); 23 C.F.R. Part 669; 26 C.F.R. Part 41)

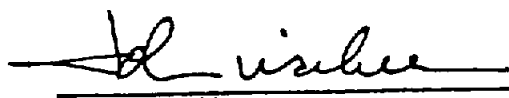
DEPARTMENT OF TRANSPORTATION

Chapter 19-107, Hawaii Administrative Rules, on the Summary Page dated December 19, 1986, was adopted on December 19, 1986, following public hearings held on November 26, December 2, 4, and 9, 1986, after public notice was given in the Honolulu Advertiser, Hawaii Tribune Herald, Garden Island News, and Maui News on November 4, 1986.

The adoption of chapter 19-107 shall take effect ten days after filing with the Office of the Lieutenant Governor.


Edward Y. Hirata
Director of Transportation

APPROVED:


John Waihee
Governor, State of Hawaii
JAN 5 1987
Dated: _____

APPROVED AS TO FORM:


Deputy Attorney General

REC'D. BY

Filed

JAN 16 4:02PM

RECEIVED OFFICE



DOT 4-708
(HWY-510/88)

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
808 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

FEDERAL HEAVY VEHICLE USE TAX CLEARANCE CERTIFICATE

To: County Licensing Administrator

The registered owner listed below has met the Federal heavy vehicle use tax proof of payment requirements under the State of Hawaii administrative rules Title 19, Chapter 107, ENFORCEMENT OF THE FEDERAL HEAVY USE TAX and is authorized to renew the vehicle's registration or to register the vehicle described below.

NAME OF REGISTERED OWNER:

VEHICLE DESCRIPTION:

CERTIFICATE NO.:

EXP. DATE: _____

ISSUED BY: _____
(Authorized Signature)

GENERAL INSTRUCTIONS:

This clearance certificate is valid only for the vehicle listed above and must be submitted with your motor vehicle registration renewal application.

DOT 4-705
(HWY-8 9/86)

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
869 Punchbowl Street
Honolulu, Hawaii 96813

FEDERAL HEAVY VEHICLE USE TAX EXEMPT CERTIFICATION
(Vehicles Less than 55,000 Pounds Taxable Gross Weight)
I. CERTIFICATION

As of this date, _____, 19____, the undersigned, certify that the taxable gross weight which I have declared for vehicle(s) listed on the reverse side of this form is (are) less than 55,000 pounds.

The undersigned understands that any modification or change in usage which changes the taxable gross weight of any vehicle under this certification letter shall be reported in writing to the Department of Transportation, Highways Division within ten days of such change.

The undersigned also understands that, under federal law, fraudulent use of this certificate will subject the undersigned or any other party making such fraudulent use to criminal penalties which may include fines and/or imprisonment together with the costs of prosecution.

The undersigned further understands that he/she must be prepared to establish by satisfactory evidence the taxable gross weight of the vehicle.

Name of Registered Owner (Print)

Business Name if Different from
Registered Owner's Name (Print)

Signature/Title

Address

City, State, Zip Code

Telephone Number

Taxpayer Identification No.

FEDERAL HEAVY VEHICLE USE TAX EXEMPT CERTIFICATION

II. VEHICLE DATA

Registered Owner: _____

[illegible]