

Information Release

ST 1992-05 – Highway Transportation for Hire - Issued August 1992; Updated August 2011

This Information Release corrects an erroneous interpretation by some taxpayers of the Information Release issued August 1992. Ohio Revised Code ("R.C.") 5739.02(B)(6) exempts sales of motor vehicle fuel from sales and use tax only if the consumer paid motor vehicle fuel tax on such fuel. R.C. Chapter 5735 exempts from the Ohio motor fuel tax, motor fuel for various reasons, including but not limited to, its manner of use, thus, making it subject to Ohio sales and use tax. The Department does not consider motor vehicle fuel that is used in an exempt manner for purposes of the Ohio motor fuel tax exempt from Ohio sales and use tax based on R.C. 5739.02(B)(32) (highway transportation for hire exemption) because the motor fuel is not incorporated into the vehicle as required by that exemption. Further, as authorized by R.C. 5739.02(B)(6), effective August 2011 absent an applicable exemption, the Department will offset motor vehicle fuel tax refunds by the amount of sales or use tax due.

What Is Highway Transportation For Hire?

R.C. [5739.01\(Z\)](#) states:

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

A carrier is engaged in highway transportation for hire if it satisfies the following:

1. Has operating authority from the Public Utilities Commission of Ohio ("PUCO") or United States Department of Transportation ("USDOT"); and
2. In fact transports tangible personal property belonging to others for payment.

A private carrier that does not transport property belonging to others is not engaged in highway transportation for hire. Similarly, a carrier that is not required to obtain operating authority from either the PUCO or USDOT is not engaged in highway transportation for hire.

WHAT IS COVERED BY THE SALES TAX EXEMPTION?

The sales tax law provides a sales tax exemption for vehicles primarily used in highway transportation for hire in R.C. [5739.02\(B\)\(32\)](#). That provision states:

The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

In order to be exempt, the vehicle must be **primarily** (more than 50%) used in carrying property belonging to others for consideration. For example, trucks used by a company that delivers its own merchandise, but has a permit solely for the purpose of picking up back hauls, would be taxable if the back haul mileage is equal to or less than the delivery mileage.

The exemption covers:

1. Titled motor vehicles, including trailers;
2. Items actually attached to the exempt vehicle, including repair parts, tarps, radios, computers, signs, placards, reflectors, etc.;
3. Oil, lubricants, and similar things incorporated into the vehicle;
4. Services (labor) to repair or mechanically maintain the motor vehicle; and
5. Cleaning of tank trailers between loads.

The exemption **does not** cover:

1. Motor vehicle fuel that is used in a nontaxable manner under chapter 5735 of the Ohio Revised Code;
2. Washing the interior or exterior of the vehicle (except tank trailers);
3. Log books and other items used by the driver but not physically part of the vehicle;
4. Motor vehicles, such as company cars or repair trucks, that are not used primarily to transport property for consideration;
5. Terminal equipment, such as conveyors and hand trucks;
6. Repair or maintenance shop tools and equipment; and
7. Office equipment, computers, building supplies or anything else that is not part of the motor vehicles primarily used in highway transportation for hire.

Must obtain the customer's PUCO or USDOT permit number.

At the time of purchase, a fully completed exemption certificate indicating highway transportation for hire must be provided to the vendor. The PUCO or USDOT permit number should be indicated on the exemption certificate. Brokers should attach a copy of their lease agreement with the carrier. .

HAZARDOUS WASTE

Under federal and state law, generators of hazardous waste have a continuing responsibility and liability regarding the disposal of such materials. Therefore, the activity of hauling hazardous waste for such persons is considered to be transporting property "belonging to others." For purposes of [5739.01 \(Z\)\(1\)](#) R.C., a hazardous waste ("HW") permit issued by the PUCO is a "permit or certificate." The holder of an HW permit that primarily transports its own hazardous waste is not exempt. Also, vehicles whose primary purpose is something other than transporting the hazardous waste, e.g. vehicles used to carry clean—up or remediation equipment, are not exempt.

TRASH

Generally, transporting trash, garbage, construction or demolition debris, or any other "non-hazardous" waste for disposal is not highway transportation for hire because the hauler's customer retains no ownership rights in the waste after it has been picked up by the hauler.

If you have any questions regarding this matter, contact our Taxpayer Services Center at 1-888-405-4039, or e-mail us through our website at tax.ohio.gov.

OHIO RELAY SERVICES FOR
THE HEARING OR SPEECH IMPAIRED
Telephone: 1-800-750-0750

A company granted operating authority by the USDOT is assigned an MC number, MX number or FF number.