



U.S. DEPARTMENT OF
TRANSPORTATION

**Federal Highway
Administration**

Order

Subject

**Heavy Vehicle Use Tax (HVUT) Proof of Payments
and Certification Requirements**

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1. **What is the purpose of this directive?** This directive provides the Federal Highway Administration's (FHWA's) policy concerning the Heavy Vehicle Use Tax (HVUT) based on the authority and requirements of Title 23, Code of Federal Regulations (CFR), Section 669, which updates the regulation governing the enforcement of the HVUT and provides revised procedures for tracking the HVUT proof of payments, and section 23 CFR 669.7, which provides the certification requirements that the State Governor, or his or her designee, certify annually that the State is in conformance with all requirements.
2. **Is this a new FHWA directive?** Yes. This is a new directive. This directive cancels the guidance in the Federal-aid Policy Guide (FAPG) Non-Regulatory Supplement (NS) 23 CFR 669, issued September 30, 1992.
3. **What is the background of this directive?**
 - a. In the Surface Transportation Assistance Act of 1982, Congress established the HVUT. Subsequently, section 26 CFR 41.6001-2 set forth the circumstances under which a State must require proof of payment of the tax imposed by section 26 CFR 41.4481(a), and the required manner in which such proof of payment is to be received by

the State as a condition of issuing a registration for a highway motor vehicle.

- b. Section 23 CFR 669.7 states: “The Governor of each State, or his or her designee, shall certify to the FHWA before January 1 of each year that it is obtaining proof of payment of the heavy vehicle use as a condition of registration in accordance with Title 23, United States Code (U.S.C.), Section 141(c). The certificate shall cover the 12-month period ending September 30, except for the certificate due on January 1, 2011, which shall cover the 4-month period from June 1, 2010, to September 30, 2010.”
 - c. Section 23 CFR 669.21 states: “The FHWA shall periodically review the State’s procedures for complying with 23 U.S.C. 141(c), including an inspection of supporting documentation and records. In those States where a branch office of the State, a local jurisdiction, or a private entity is providing services to register motor vehicles including vehicles subject to the HVUT, the State shall be responsible for ensuring that these entities comply with the requirements of this part concerning the collection and retention of evidence of payment of the HVUT as a condition of registration for vehicles subject to such tax and develop adequate procedures to maintain such compliance. The State or other responsible entity shall retain a copy of the receipted IRS Schedule 1 (Form 2290), or an acceptable substitute prescribed by 26 CFR 41.6001-2 for a period of 1 year for purposes of evaluating State compliance with 23 U.S.C. 141(c) by the FHWA. The State may develop a software system to maintain copies or images of this proof of payment.”
 - d. This directive adopts recent revisions to the compliance procedures in 23 CFR 669, which adopted procedures similar to that used in other certification programs that utilize the notices of apportionments for providing notice of non-conformity and opportunity for review. These regulatory revisions modified existing FHWA procedures for enforcement of the State registration of vehicles subject to the HVUT by making it consistent with several changes in applicable law and technology, and with regulations recently promulgated by the Internal Revenue Service (IRS). In addition, the procedures were revised to parallel other funding sanction procedures administered by the FHWA.
4. **What is the scope of this directive?** The provisions of this directive are applicable to the FHWA Federal-aid Divisions in all States and the District of Columbia.

5. **What authorities govern this directive?**

- a. 23 U.S.C. 141(c), Enforcement of Requirements.
- b. 23 U.S.C. 315, Rules, Regulations, and Recommendations.
- c. 23 CFR 669, Enforcement of Heavy Use Vehicle Tax.
- d. 26 CFR 41.6001-2, Proof of Payment for State Registration Purposes.
- e. 26 CFR 41.4481(a), Imposition of Tax.
- f. 26 CFR 41, Excise Tax on Use of Certain Highway Motor Vehicles.

6. **What is FHWA's policy concerning the HVUT?**

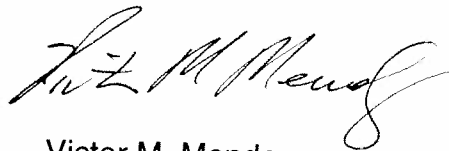
- a. FHWA will follow the requirement in 23 CFR 669.3 that each State will require proof of payment of the vehicle use tax (on registrants of heavy trucks as described in 26 CFR 41) either before lawfully registering or within 4 months after lawfully registering such vehicles as provided for under a suspension registration system.
- b. FHWA will ensure that the States are obtaining proof of payment of the HVUT before registering these vehicles to operate on the roadways.
- c. FHWA will conduct compliance reviews at least once every 3 years or less, if needed.
- d. FHWA will periodically review the State's procedures for complying with 23 U.S.C. 141(c), including an inspection of supporting documentation and records, as required by 23 CFR 669.21, Procedure for Evaluation State Compliance.

7. **What are the responsibilities of the FHWA Federal-aid Divisions in the administration of the HVUT?** The FHWA Federal-aid Divisions are responsible for the following:

- a. Ensuring that States are obtaining the proof of payment, per paragraph 6b;
- b. Conducting compliance reviews, per paragraph 6c, by selecting a reasonable sample of registration records and checking the rate of compliance for selected records, as specified in the HVUT Compliance Review Training Course. Divisions are encouraged to

invite IRS officials to participate in the compliance review to ensure that the State HVUT procedures are effectively meeting the regulation intended purpose;

- c. Reviewing the State's procedures to ensure compliance, per paragraph 6d;
 - d. Ensuring that division employees who conduct reviews take the HVUT Compliance Review Training Course on FHWA's administration of the HVUT and review of State's procedures. The objective of this course is to enhance the HVUT enforcement process, and thereby reduce the HVUT evasion, by training FHWA division staff responsible for conducting periodic compliance reviews. This course is designed to provide an introduction to the HVUT, clearly specify the responsibilities when performing the HVUT compliance reviews, outline effective procedures for conducting compliance reviews, assist in the detection of the HVUT evasion schemes, outline new enforcement steps being taken to improve the HVUT compliance, and test the understanding of the compliance process; and
 - e. Ensuring that copies of this directive are provided to the State departments of transportation.
8. **Where can I obtain additional guidance?** For additional guidance, contact the Office of Highway Policy Information, Highway Funding and Motor Fuel Team.



Victor M. Mendez
Administrator

