



American Association of Motor Vehicle Administrators

Comments to the US Treasury Department - IRS call for Comments on the Federal Heavy Vehicle Usage Tax (HVUT) Form 2290

November 18, 2005

Overview

The Heavy Vehicle Use Tax (HVUT) has long been an issue within the motor vehicle and motor carrier services communities. Every motor carrier operating a commercial motor vehicle over 54,999 pounds, both inter-jurisdictionally and intra-jurisdictionally, is required to file the HVUT/Form 2290 annually with the Internal Revenue Service (IRS) and obtain verification of filing/payment from the IRS. Each jurisdiction is mandated to obtain proof of payment of the HVUT for all commercial vehicles meeting the filing requirements at the time of registration. Failure by a state to obtain the required proof can result in a loss of federal highway funding up to 25 percent.

Proceeds from the HVUT provide millions of dollars in federal highway transit funds to the jurisdictions. Therefore, it is an extremely important issue, which deserves high priority to ensure compliance both at the jurisdiction level as well as at the motor carrier level. It is important that changes are made to ensure that efficient and effective procedures are developed and adopted, and that those procedures work for both the jurisdictions and the motor carriers. Moving to electronic processing of vehicle registrations for the benefit of the carriers and the states is very difficult, if not impossible, while HVUT verification is a paper-based process.

There are multiple issues to be addressed regarding the burdens placed on the various stakeholders:

- Motor carriers
- Jurisdictions
- IRS

The HVUT process is currently completely manual. It starts with the motor carrier completing and filing a paper 2290 tax form with the IRS. The IRS must then manually process the form and submit back to the taxpayer a stamped Form 2290. The motor carrier then must submit the stamped hardcopy 2290 form to the jurisdiction registration agency at the time of registration. The jurisdiction must maintain the paper copy of the stamped 2290 form with the registration record, or have another approved process for verifying that it obtained proof of HVUT payment at the time of registration. Jurisdictions are subject to audits of their procedures, which are conducted and approved by the Federal Highway Administration (FHWA).

In discussing the problems associated with HVUT and their potential solutions, it is important to note that states have registrant identifiers (EIN or SSN), vehicle identification numbers (VIN), and weight data, which is a sufficient set of information to determine what the HVUT payment should be.

Problems with the Current Process

There are a number of inherent problems:

- Manual process is duplicative and error prone
- Burden on both industry and jurisdictions (AAMVA membership)
- Subject to fraud at various levels
- IRS does not have sufficient data for audit or verification
- Not a level playing field for industry due to the variability of process implementations
- Failure to collect all taxes can cost jurisdictions federal highway funds
- Based on vehicle numbers and data provided by IRS, possibly missing \$250 to \$350 million per year

In federal law HR 4520, “American Jobs Creation Act of 2004”, Section 867, changes were passed dealing with specifics of the HVUT that should help with some of the problems. The changes are as follows:

- Added requirement that carriers with 25 or more vehicles to file the HVUT electronically.
- Repealed the provisions of the HVUT law allowing carriers to pay the tax in quarterly installments
- Provided for prorating the tax when a vehicle is sold during the tax period, and allows for a credit or refund.

The changes in HR 4520 did not address the collection of HVUT data, the needed verification process, or funding for development and implementation. However, the IRS has indicated that it intends to move forward with the process of collecting and maintaining the necessary data, and to work toward an electronic verification process in a multi-phased implementation. With the passage of HR 3, the highway re-authorization bill, project funding for IRS was approved in the part of the bill that deals with several excise tax initiatives.

Because jurisdictions are required to obtain the proof of HVUT payment at the time of registration, the lack of an electronic process to obtain this proof is a major issue. Currently, the IRS does not have the required data to support such electronic verification. Creation of information exchange mechanisms and implementation of a totally electronic verification process would be the optimum solution. Part of the creation of such a process would be the resolution of current issues regarding the disclosure of information. In many jurisdictions the vehicle registration agency is not a revenue tax agency; transportation departments, motor vehicle departments or highway safety departments are responsible for registration.

Issues to be Addressed

- Fraud or Non-Compliance
- Electronic Filing
 - **Benefits of E-filing**
 - Will enhance data and tax collection
 - Will greatly improve process for industry and IRS
 - Will reduce paper burden for industry, jurisdictions and IRS
 - Will make processing of money much more efficient
 - **Concerns of E-filing**
 - Only motor carriers with 25 or more vehicles are required to file electronically. This misses a large portion of the motor carrier population.
 - Will require a comprehensive marketing campaign to get smaller carriers to use e-filing
 - Intrastate operations are a large part of the population and are represented mainly by motor carriers with fewer than 25 vehicles.
- Jurisdiction Verification
 - **Should be simple electronic process**
 - Jurisdictions need to know if the HVUT has been filed for a specific vehicle, identified by VIN.
 - The process needs to be a simple electronic interface accessible from multiple and various platforms.
 - A simple HVUT indicator that can be accessed by the respective jurisdiction's registration system is needed.
 - Need funding for states to create interfaces with IRS database.
- Tracking of credits, proration and refunds

Options

There are several options to be considered; all have merit. The options are representative of possible approaches and are not mutually exclusive. The following are three options that should be considered as the process of improving the HVUT program proceeds:

Option 1: State Shares Vehicle Registration Data

Under this option, states would supply data on both interstate and intrastate vehicles registered in their respective states. The IRS could then create invoices based on the vehicle and registered weight data, and invoice the carriers directly. Or, the IRS could use the data to verify 2290 filing information. Monthly updates could be supplied to the IRS from each state so the IRS would get data on added and deleted vehicles. The data format and transfer mechanism would have to be determined, and would have to ensure acceptance from various data systems because states use different systems and data formats.

With this option there are two possibilities for the states:

- The states could be relieved of the verification burden once they are able to comply with the batch data uploads on a monthly basis; or
- The state could still verify via an electronic interface to the IRS database that the tax had, in fact, been paid at the time of registration.

Issues or Concerns with Option 1:

- Still need sanctions if carrier doesn't pay the tax
- How would credits from sold, destroyed or deleted vehicles be handled?
- Fee must cover the cost of carrying out the process

Option 2: States Verify via an Electronic Interface

Under this option the IRS would collect and maintain the data necessary to allow for electronic verification of HVUT payment status at vehicle registration time. Although the IRS system would contain the detailed data necessary to assess whether HVUT payment had been made, states would receive a simple 'yes' or 'no' response to query for the HVUT status for a specific VIN.

- To help IRS establish the initial information repository necessary to support this option, jurisdictions could provide interstate and intrastate registration data to the IRS via a defined file format.
- The IRS could validate data from electronic filings and hardcopy filings with validated data creating the verification database.
 - The jurisdictions would assist the IRS in detecting fraudulent HVUT filings that have occurred in the past if jurisdiction data were provided on registrations for which there are no records of the 2290 being filed and the taxes paid.

States would access the IRS data via a network link either through the AAMVAnet network or a similar portal. This would be done through a simple electronic interface that could work through the various technologies currently being deployed, such as the SAFER (Safety and Fitness Electronic Records) system. Use of the interface should not add any additional processing steps for the end user (the registration agent or DMV clerk). The AAMVAnet access would be the most efficient and cost-effective because all jurisdictions already have and maintain an AAMVAnet connection. Access could be controlled through a subscription process similar to the process used to upload data for the SAFER database.

Issues or Concerns with Option 2:

- How will the information be transferred to the IRS?

- Funding is needed for states to develop system interface
- Functionality with multiple, various systems and data formats
- Accuracy of VIN data
 - How will VINs be verified if data entry is done via the e-filing system or by data entry operators?

Option 3: States Collect HVUT

Under this option, the states would collect the HVUT information, already collected as part of the registration process, and taxes on behalf of the IRS. The HVUT would be collected at the time of registration and forwarded to the IRS on a monthly basis similar to the current IRP monthly transmittal process.

This option would require the IRS to adopt rules that would allow them to contract out the HVUT process and provide for a fee that would be paid to the jurisdictions for administering the program.

Issues or Concerns with Option 3:

- How would credits from sold, destroyed or deleted vehicles be handled?
- Fee must cover cost of doing the process
- States ability to collect federal funds
- Transmittal and funds transfer issues

Conclusion

AAMVA, and its membership, are ready to work with the IRS to develop a workable and compliant solution on the HVUT. In today's climate, we must find more efficient and effective ways to do business and reduce the amount of paper that is transferred. There are several workable options to totally automate this process, and AAMVA looks forward to the opportunity to work with the IRS and other affected parties to reach the best possible solution.