

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

TO: All interstate motor carriers as defined in New York Tax Law §502(5): (A) who reside outside the State of New York; and (B) who have paid the \$15.00 registration fee and the \$4.00 decal fee imposed by Tax Law §§ 502(1)(a) and 502(6)(a) (“Taxes”).

CASE DESCRIPTION: This class action was filed against the State of New York on October 8, 2013, challenging the constitutionality of the registration and decal fees set forth in Tax Law § 502(1)(a) and Tax Law § 502(6)(a). On January 22, 2016, the Court entered an Order granting Plaintiffs’ motion for summary judgment, finding that “the fees set forth in Tax Law § 502(1)(a), and Tax Law § 502(6)(a) are unconstitutional under the Commerce Clause of the U.S. Constitution and therefore are invalid and cannot be enforced,” and permanently enjoining Defendants from “implementing or enforcing the unconstitutional taxes against plaintiffs.”

PROPOSED SETTLEMENT: On September 21, 2016, the State of New York agreed to refund class members \$44,429,596.00, including approximately 6% interest (“Settlement”), for registration and decal fees collected in Series 20, 21, and 22, under the four-year statute of limitations, between June 1, 2009 and March 8, 2016. The Settlement specifies that after approval by the Court, refunds are to be allocated to class members after deduction of attorneys’ fees in the amount of 25% of the Settlement (\$11,107,399.00), plus expenses (\$500,000.00), and incentive awards to the representative plaintiffs (\$6,000). Any undeliverable or unclaimed settlement funds shall be used to pay, in the following priority: (1) previously unreimbursed expenses; (2) attorneys’ fees expended after the Court’s final approval of the Settlement; (3) a *cy pres* distribution to the OOIDA Foundation, Inc., a not-for-profit charitable organization subject to the provisions set forth in IRS Section 501(c)(3).

REFUND CALCULATIONS: Individual refunds will be calculated for each truck registered in New York based upon the Series when each tax payment was assessed. Series 20 refunds will be approximately \$12.11 per truck. Series 21 refunds will be approximately \$13.15 per truck. Series 22 refunds will be approximately \$11.55 per truck. Class members who paid taxes in more than one series, or for more than one truck, should receive a single refund for all taxes paid. Refunds are based on data provided by the State of New York.

*****IMPORTANT*****

DUTY TO REIMBURSE OWNER-OPERATORS

Class members are entitled to keep refunds for taxes paid exclusively by them, and on their own behalf. By Order of the Court, however, class members who charged back any registration or decal payments to owner-operators or to any other entities are required to pass through or reimburse the full amount of the tax refunds they receive for such tax payments to those owner-operators or entities, without regard to any claims or setoffs. Any unclaimed or undelivered reimbursements to such owner-operators or entities shall be returned to First Class, Inc. (see below) no later than six (6) months after the date the refund payment was sent to the class member, along with Verification that the carrier has complied with the foregoing reimbursement requirements. Class members must complete the Verification form available at www.nytrucktaxrefunds.com and return it to First Class, Inc. (see below). All disputes regarding the reimbursement of owner-operators shall be referred to a Mediator designated by the Court. Any disputes must be received in writing by First Class Inc. within six (6) months after the date the refund payment was sent to the class member.

REFUND RIGHTS: Class members do not need to take any actions in order to receive a refund. If the Settlement Agreement is given final approval by the Court, Class members will receive a refund check as directed by the Court.

OBJECTION RIGHTS: Class members who object to the Settlement may do so by mailing a written notice, including the grounds for objection, which must be received by First Class, Inc. (see below) by January 19, 2017.

OPT-OUT RIGHTS: Class members who do not wish to receive a refund or participate in the settlement, may opt out of the class by mailing a written notice which must be received by First Class,

Inc. (see below) by January 19, 2017. However, class members who choose to opt out of the settlement may be subject to a claim for attorneys' fees by Class Counsel for the benefit that has been conferred on opt-out class members through this action.

RIGHT TO ATTEND HEARING: The Court will conduct a hearing at 10:00 a.m. on April 13, 2017 to determine whether to grant final approval to the Settlement. Class members are entitled to attend the hearing either in person or through an attorney (at their own expense). The hearing will be conducted at the Albany County Courthouse, 16 Eagle St., Albany, NY 12207.

FURTHER INFORMATION: Further information is available online at www.nytrucktaxrefunds.com. Class Members should address any questions or correspondence to:

First Class, Inc./ J13351- OOIDA NY
5410 W. Roosevelt Rd., Suite 222
Chicago, IL 60644-1490
855-800-4235

Hon. James H. Ferreira
Acting Justice of the Supreme Court