**CRIMINAL TAX FRAUD IN THE FIFTH DEGREE**

**Tax Law § 1802**

**CRIMINAL TAX FRAUD IN THE FOURTH DEGREE**

**Tax Law § 1803**

**(in excess of $3,000)**

**CRIMINAL TAX FRAUD IN THE THIRD DEGREE**

**Tax Law § 1804**

**(in excess of $10,000)**

**CRIMINAL TAX FRAUD IN THE SECOND DEGREE**

**Tax Law § 1805**

**(in excess of $50,000)**

**CRIMINAL TAX FRAUD IN THE FIRST DEGREE**

**Tax Law § 1806**

**(****in excess of $1,000,000)**

(Committed on or after April 7, 2009[[1]](#footnote-1))

The (*specify*) count is Criminal Tax Fraud in the (*specify*) degree.

*Select appropriate alternative:*

Under our law, a person commits Criminal Tax Fraud in the fifth degree when he or she commits a tax fraud act.

Under our law, a person is guilty of Criminal Tax Fraud in the (*specify*) degree when he or she commits a tax fraud act or acts and, with the intent to evade any tax due[[2]](#footnote-2), or to defraud the state [or any subdivision of the state], the person pays the state [and/or a political subdivision of the state] (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of (*specify*) dollars less than the tax liability that is due.

The following terms used in that definition have a special meaning:

TAX FRAUD ACT means willfully engaging in an act or acts or willfully causing another to engage in an act or acts pursuant to which a person[[3]](#footnote-3): (*continue by inserting the appropriate subdivision from Tax Law §1801 (Tax fraud acts).*

WILLFULLY means acting with either intent to defraud, intent to evade the payment of taxes or intent to avoid a requirement[[4]](#footnote-4) of law, a lawful requirement of the commissioner or a known legal duty.[[5]](#footnote-5)

INTENT means conscious objective or purpose. Thus, a person acts with intent to evade any tax due or to defraud the state [or to evade the payment of taxes or to avoid a requirement[[6]](#footnote-6) of law, or a lawful requirement of the commissioner or a known legal duty] when that person's conscious objective or purpose is to do so.[[7]](#footnote-7)

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following [two / three] elements:

* + 1. That on or about (*date*), in the County of (County), the defendant, (*defendant's name*) committed a tax fraud act;
    2. That the defendant did so with the intent to evade any tax due, or to defraud the state [or any subdivision of the state];

*Omit if “criminal tax fraud in the fifth degree” is charged:*

* + 1. and, That the defendant paid the state [and/or a political subdivision of the state] (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of (*specify*) dollars less than the tax liability that is due.

If you find the People have proven that [both / each] of those elements beyond a reasonable doubt, you must find the defendant guilty of this crime.

If you find the People have not proven [both / any one or more] of those elements beyond a reasonable doubt, you must find the defendant not guilty of this crime.

1. Paragraph (6) of Tax Law 1801(a), however, was amended by the L. 2009, c. 25, pt. F, § 4 and was effective June 1, 2009. [↑](#footnote-ref-1)
2. The statute here states: “under this chapter.” [↑](#footnote-ref-2)
3. Tax Law § 1801 (a) [opening paragraph] [↑](#footnote-ref-3)
4. At this point the statute states: “of this chapter” and the words “of law” have been substituted. [↑](#footnote-ref-4)
5. Tax Law § 1801(c). [↑](#footnote-ref-5)
6. [↑](#footnote-ref-6)
7. *See* Penal Law § 15.05(1). [↑](#footnote-ref-7)