

**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<sup>1</sup>)

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<sup>2</sup>, 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.

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<sup>1</sup> 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.

<sup>2</sup> The statute here states: "under this chapter."

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<sup>3</sup>: *(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<sup>4</sup> of law, a lawful requirement of the commissioner or a known legal duty.<sup>5</sup>

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<sup>6</sup> 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.<sup>7</sup>

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];

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<sup>3</sup> Tax Law § 1801 (a) [opening paragraph]

<sup>4</sup> At this point the statute states: “of this chapter” and the words “of law” have been substituted.

<sup>5</sup> Tax Law § 1801(c).

<sup>7</sup> See Penal Law § 15.05(1).

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

3. 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.