



STATE OF NEW YORK  
OFFICE OF THE STATE INSPECTOR GENERAL  
**Final Report**  
**November 30, 2010**

## SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General determined that Richard Garrabrant, Syracuse Division Director for New York State Thruway Authority, failed to maintain required records regarding his extensive personal use of a state-owned vehicle and underreported the vehicle's use for personal income tax purposes. The Inspector General also ascertained that Garrabrant directed Thruway Authority mechanics to modify his assigned Thruway Authority vehicle for personal purposes.

The Inspector General recommended that the Thruway Authority take appropriate disciplinary action against Garrabrant. In response, the Thruway Authority advised that it demoted and reassigned Garrabrant. The Inspector General has forwarded this report to the New York State Department of Taxation and Finance for the investigation of potential additional tax liability.

## ALLEGATION

An anonymous complainant alleged that Richard Garrabrant, Syracuse Division Director for the Thruway Authority, abuses his Thruway Authority-assigned vehicle. Allegedly, Garrabrant directed that a Thruway Authority garage purchase a roof rack and tow hitch and affix them to his state vehicle for personal use. Garrabrant also allegedly traveled in his state vehicle to Buffalo where he works as a part-time professor and consultant.

## SUMMARY OF INVESTIGATION

### **Background**

The New York State Thruway is a 570-mile highway system crossing the state of New York. The New York State Canal Corporation (Canal Corp) is a subsidiary of the Thruway Authority which includes four canals, canalized natural waterways, five lakes, numerous feeder reservoirs, and canal terminals on Lake Champlain linking the Hudson River with Lake Champlain, Lake Ontario, the Finger Lakes, the Niagara River, and Lake Erie.

Richard Garrabrant is a Division Director for the Thruway Authority who is assigned to oversee the Syracuse Region between Canajoharie and Rochester. He also oversees the corresponding canal system within that area. His duties involve the management of all systems within that area, including toll collection, road and bridge repair, and canal maintenance. Garrabrant is also a member of several Thruway Authority committees including the construction committee and the Volpe Project (a vast audit project).

In addition, Garrabrant currently works for the engineering firm of H & J, Inc., and has taught as an adjunct professor at the State University of New York (SUNY) at Buffalo. Both the outside employment at SUNY Buffalo and for the engineering firm were approved consistent with Thruway Authority policy in effect at the time. Garrabrant ceased employment with SUNY in May 2007, prior to the period covered by the Inspector General's review.

### **Garrabrant's Personal Use of a Thruway Authority Vehicle**

The Thruway Authority's fleet management policy, known as the "Assignment and Use of Thruway Authority Vehicles," provides for different classes of vehicle assignments, which serve as the basis for a vehicle's designation as subject to unrestricted use for a specified individual including personal use,<sup>1</sup> commuting use, or within a pool of vehicles to be utilized by a variety of employees for official purposes. At all times relevant to this report, Garrabrant was granted unrestricted use of a Thruway Authority-assigned vehicle.

Under federal tax law and regulations, to the extent that a Thruway Authority employee uses a Thruway Authority vehicle for personal purposes including commuting, the employee is required to maintain a log of personal use and report such non-official use on a yearly basis to the Thruway Authority for inclusion of the value as income for federal and state personal income tax purposes. Under federal law, failure to maintain adequate, contemporaneous logs requires the driver to include all vehicle mileage as personal income for the annual reporting period.

The Inspector General interviewed Garrabrant under oath. Garrabrant admitted extensive use of his Thruway Authority vehicle for personal purposes, including commuting to and from work, local weekend usage, and on family vacations, trips to family and friends near Turning Stone Casino, Buffalo, and camping. Garrabrant further admitted to transporting Thruway Authority employees, his family, and on occasion, friends in the vehicle, but denied using the Thruway Authority vehicle for outside employment and the Inspector General uncovered no evidence to disprove this statement. For commuting purposes, Garrabrant utilized the Thruway Authority vehicle to travel between his home in Pattersonville and his office in Syracuse, a 120-mile one-way trip. However, Garrabrant claimed that his commute only included those miles from his home to Thruway mile marker 194.1, the eastern edge of his district, a 30-mile one-way trip.

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<sup>1</sup> Consistent with Budget Policy D-750, in August 2010, the Thruway eliminated all personal use of a Thruway vehicle other than commuting use.

The Inspector General requested that Garrabrant produce his required mileage logs for January 2008 to the date of the request. After two weeks and multiple excuses, Garrabrant provided the Inspector General with records purportedly covering the period November 2009 to August 2010. In addition to being incomplete, the documents Garrabrant provided merely listed total miles driven per day. The records failed to designate whether the various trips were for commuting, personal or business purposes; the location(s) to which he traveled; or indicate a business purpose for any of the trips as required by federal law and regulations. Due to the deficiencies in the records provided, it appears that all miles logged by Garrabrant on Thruway Authority vehicles should be deemed personal miles for personal income tax purposes.<sup>2</sup> Moreover, due to his failure to keep adequate records, his long commute, and his admitted extensive personal use of his assigned vehicles, the Inspector General can only conclude that Garrabrant underreported his mileage.

### **Garrabrant Ordered the Alteration of his Thruway Authority-Provided Vehicle**

Thruway Authority policy 2006-8 prohibits the use of agency equipment or resources for “purposes not in the interest of the [Thruway Authority’s] functions or business.” On June 30, 2006, at Garrabrant’s direction, Thruway Authority mechanics modified Garrabrant’s Thruway Authority-provided Dodge Durango by affixing a roof rack to the vehicle.<sup>3</sup> This additional equipment was added to the vehicle during a normally scheduled appointment for preventative maintenance at a cost of \$189.70 in labor and parts.

When the Inspector General asked Garrabrant about the addition of the roof rack, he maintained that the rack was a necessary addition to his vehicle because he needed to use a ladder on one occasion to inspect a bridge. Garrabrant further claimed that no other vehicle in his division could have transported the ladder. However, Garrabrant admitted that he also used the roof rack to transport a personal canoe for a camping trip with the Thruway Authority vehicle.

The Inspector General interviewed Mark Austin, the Thruway Authority’s Director of Equipment Inventory Management who informed the Inspector General that, contrary to Garrabrant’s claims, the Thruway Authority owns numerous cargo vans in the Syracuse region fitted with ladder racks and able to carry a ladder for the Syracuse Division Director. Austin further reported that he was unaware that Garrabrant had directed that his vehicle be altered and added that it would be improper to add a roof rack for personal camping trips.

## **FINDINGS AND RECOMMENDATIONS**

The Inspector General determined that Richard Garrabrant failed to maintain records of extensive personal usage of his assigned Thruway Authority vehicle as required under federal law and regulations. This failure to document his substantial personal use of a state vehicle resulted in his underreporting his tax liability for the vehicle. The Inspector General also determined that Garrabrant ordered the alteration of

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<sup>2</sup> For further explanation of substantiation requirements, see 26 USC §274 and 26 CFR §1.132-5.

<sup>3</sup> Contrary to the allegation, the tow hitch came as standard equipment on the vehicle.

his Thruway Authority-assigned vehicle for personal purposes in violation of Thruway Authority and State restrictions.

The Inspector General recommended that the Thruway Authority take appropriate disciplinary action against Garrabrant. The Inspector General has also forwarded this report to the New York State Department of Taxation and Finance for the investigation of potential additional tax liability for Garrabrant.

The Thruway Authority advised the Inspector General that as a result of disciplinary action, Garrabrant was demoted from Syracuse Division Director to Special Assistant to the Chief Engineer in the Thruway Authority's Albany headquarters, with a salary reduction of \$13,519, and was required to turn in his Thruway Authority vehicle.

The Thruway Authority also advised it has amended its vehicle use policy as follows: "The Authority's revised policy limits personal use to commuting and limited incidental activities consistent with the policy. It also restricts the one-way commuting distance to no more than 50 miles. In addition, a uniform Monthly Vehicle Usage and Mileage Log has been developed and is required to be kept contemporaneously with vehicle use."