



Instructions for Form MT-203

Distributor of Tobacco Products Tax Return and Accompanying Schedules (Form MT-203-S)

MT-203-I

(9/23)

General information

Who must file

A distributor must complete this return, attach Form MT-203-ATT, *Information on Roll-Your-Own Cigarette Tobacco Manufactured or Imported by Distributor*, and pay the excise tax due on tobacco products.

Note: Failure to file returns or to file properly completed returns may result in revocation of your distributor of tobacco products license.

When to file

Form MT-203 must be filed for each month on or before the 20th day of the following month. A return must be filed even if no tax is due.

Definitions

The following definitions relate to tobacco products.

Little cigars means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco, other than natural leaf tobacco wrapper, and weighing not more than four pounds per thousand or with a cellulose acetate or other integrated filter.

Cigars means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is a cigarette). *Cigars* also include, except where expressly excluded, any little cigar.

Snuff means any finely cut, ground, or powdered tobacco that is not intended to be smoked. Snuff includes both moist and dry snuff, but does not include chewing tobaccos such as plug or twist tobacco. Snuff also does not include compressed powder tobacco lozenges.

Tobacco products means any cigar, including a little cigar, or tobacco, other than cigarettes, intended for consumption by smoking, chewing, or as snuff.

Wholesale price means the price for which the tobacco products are sold to a distributor, before the allowance of any discount, trade allowance, rebate or other reduction, and including the federal excise taxes paid by the seller. The invoice received by a distributor for its purchase of a tobacco product is presumptive evidence of the wholesale price of the tobacco product.

If tobacco products are transferred at no charge, gratis, or are otherwise listed as free goods, it is in effect a discount and the ordinary or usual wholesale price of such products must be added to the invoice to arrive at the total wholesale price subject to tax. Charges for freight, insurance, customs, duties, and other similar charges necessary to effectuate delivery, if separately stated on the invoice, are not included in the wholesale price. However, federal excise taxes paid by the manufacturer are included in the wholesale price.

Rates

The New York State excise tax rate on tobacco products (other than little cigars and snuff) is **75% (.75)** of the wholesale price.

The New York State excise tax rate on snuff is \$2.00 per ounce and a proportionate rate on any fractional parts of an ounce. Cans or packages of snuff with a net weight of less than one ounce are taxed at \$2.00 per container.

The New York State excise tax rate for little cigars is \$5.35 for packs containing 20 little cigars. For packs containing other than 20 little cigars, divide the quantity by 20 to compute the equivalent number of 20 packs.

Example 1: A box of little cigars contains 50 little cigars. The excise tax rate on this box is \$13.375. ($50/20 = 2.5$ equivalent 20 packs. $2.5 \times \$5.35$ tax rate = \$13.375.)

Example 2: A pack of little cigars contains 5 little cigars. The excise tax rate on this pack is \$1.3375. ($5/20 = .25$ equivalent 20 packs. $.25 \times \$5.35$ tax rate = \$1.3375.)

Example 3: The excise tax rate on a single little cigar is \$.2675. ($1/20 = .05$ equivalent 20 packs. $.05 \times \$5.35$ tax rate = \$.2675.)

Specific instructions

Before completing Form MT-203, complete Form MT-203-S, *Distributor of Tobacco Products Information Schedules*. See the instructions for Form MT-203-S on page 4. An out-of-state distributor is not required to complete Form MT-203-S. See *Out-of-state distributors* for more information.

Tax period and taxpayer identification

Enter the beginning and ending month, day, and year for the period covered by this return.

Enter your legal name, trade name, complete address, and taxpayer ID (employer identification number (EIN) or Social Security number (SSN)).

Enter your business telephone number.

Mark an **X** in the appropriate box(es) to indicate whether the business is a manufacturer, importer, or both, or an out-of-state distributor.

No business this month – Mark an **X** in the box if you did not import, cause to be imported into the state, or manufacture tobacco products during the month being reported on this return, or in the case of an out-of-state business, did not sell tobacco products in New York State.

Sign your return and mail it to the address indicated on the return (see *Payment and mailing addresses*).

Cancel registration – Mark an **X** in the box if you are filing a final return and requesting that your registration be canceled. Complete this return for your operations during the month and send it to the address indicated on the return (see *Payment and mailing addresses*).

Amended return – If this return amends a previously filed return, enter the filing period covered by the amended return in the space provided and mark an **X** in the box. The amended return should indicate the correct figures for that month, **not** the difference between the amount previously reported and the new figures. A full explanation of the changes must accompany the amended return.

Change of business information

If you need to change your business information or address, you can do so online. Visit our website (see *Need help?*) and search: *update* and make the corrections through your Business Online Services account. If you do **not** have a Business Online Services account, either create one or you can submit Form DTF-95, *Business Tax Account Update*.

If only your address needs to be changed, submit Form DTF-96, *Report of Address Change for Business Tax Accounts*, instead of Form DTF-95. You can get these forms from our website or by calling the Miscellaneous Tax Information Center for assistance (see *Need help?*).

Line instructions

Note: Out-of-state distributors – If you are an appointed out-of-state distributor authorized by the Commissioner of Taxation and Finance to pay the tax, you are not required to complete Form MT-203-S or lines 4, 5, 23, 24, 39, or 40 on Form MT-203. On Form MT-203, lines 1 through 3, 6 through 9, 25 through 28, and 41 through 44, enter the amounts that relate to the tobacco products you sold, shipped, or delivered to any person located in New York State. On line 23, enter the total snuff you sold, shipped, or delivered to any person located in New York State. On line 38, enter the total little cigars you sold, shipped, or delivered to any person located in New York State.

Part 1 – Tobacco products

Information on roll-your-own cigarette tobacco

All distributors must complete and attach a copy of Form MT-203-ATT, *Information on Roll-Your-Own Cigarette Tobacco Manufactured or Imported by a Distributor*, along with your Form MT-203. If you do not manufacture, import, or cause to be imported roll-your-own cigarette tobacco, mark an **X** in the *No reportable activity for the month* box on Form MT-203-ATT and attach it to your Form MT-203.

Acquisitions of tobacco products (other than little cigars and snuff) during the month

You must account for all tobacco products that you manufactured in New York State, purchased in the state, imported into the state, received gratuitously, or otherwise acquired during the filing period. Also include tobacco products transferred from your facilities located outside the state to customers or your facilities located within New York State.

Distributions of tobacco products (other than little cigars and snuff) made during the month on which tax is not due

All entries on lines 4 through 9 must be supported by invoices, receipts, or other supporting documentation, to establish that the product was distributed in a nontaxable manner. Failure to maintain the documentation will result in the disallowance of these amounts.

When entering the wholesale price to be deducted, use the wholesale price upon which the tobacco products tax **was paid** or **is payable** to the New York State Tax Department by you or by another distributor.

Lines 6 through 8 – Although a schedule is not required, use the same methodology referenced for Schedule 7 and Schedule 8 under instructions for Form MT-203-S, when reporting wholesale price.

Line 8 – Enter the total wholesale price of tobacco products (other than little cigars and snuff) sold to others who are exempt from the tobacco products tax. Others who may be exempt include: a) diplomatic missions and diplomatic personnel; and b) voluntary unincorporated organizations of the armed forces of the United States.

Line 9 – Enter the total wholesale price of tobacco products (other than little cigars and snuff) that are unfit for use and consumption, are unsalable, or have been destroyed. If you returned tobacco products (other than little cigars and snuff) to a manufacturer or other seller, attach a signed statement from the

manufacturer or other seller documenting the return of tobacco products. Attach a copy of any approval from the Alcohol and Tobacco Tax and Trade Bureau.

Computation and payment of tax

Line 12 – Enter the total wholesale price of tobacco products included on line 3 on which the tobacco products tax was paid or assumed by the distributor that sold you the tobacco products (from Form MT-203-S, Schedule 2, line 6). You must keep the invoices stating who paid or assumed payment of the tax, the date, the quantity, and the price of the tobacco product for at least three years or you will be liable for the tax.

Example: *Distributor 1 imports cigars/tobacco products into New York State with a wholesale price of \$100. Distributor 1 must report and pay a tobacco products tax of \$75 using Form MT-203. Distributor 1 sells the cigars/tobacco products to Distributor 2 for \$200 (including taxes). Distributor 2 should include the \$200 on lines 1 or 2 (as appropriate) and deduct \$200 on line 12.*

Lines 15 through 22 – Complete Parts 2 and 3 on page 3 of Form MT-203 before continuing with lines 15 through 22.

Line 20 – Penalty is imposed at the rate of 10% (.10) of the amount of tax due for the first month or fraction of a month that the tax remains unpaid, plus 1% for each subsequent month or fraction of a month that the tax remains unpaid, up to a maximum penalty of 30% of the tax due. If a return is filed more than 60 days after its due date, the minimum penalty becomes the lesser of \$100 or 100% of the tax required to be paid.

Interest is computed at the rate set by the Commissioner of Taxation and Finance and is compounded daily. It is computed from the day the tax was due until the day the tax is paid. Interest is a charge for the use of money and may not be waived. Visit our website for help in computing the interest (see *Need help?*).

Line 22 – If you want to file a refund claim instead of requesting a credit toward the next month's return, you must submit your refund claim in writing along with any supporting documentation and send it to:

**NYS TAX DEPARTMENT
TDAB/TOBACCO PRODUCTS – REFUND CLAIMS
W A HARRIMAN CAMPUS
ALBANY NY 12227-2992**

You may request that the full amount or any portion of the overpayment shown on line 19 be refunded. However, you may not claim a credit for the overpayment on your return on line 22 and apply for a refund of the same overpayment.

The refund claim must be filed, or the overpayment amount must be used as a credit, within two years after the tax was paid on the tobacco products.

Certification

The return must be signed and dated by the owner (if an individual), a partner (if a partnership), or by the president, treasurer, chief accounting officer, or any other person authorized to act on behalf of the corporation (if a corporation). The fact that an individual's name is signed on the certification will be presumptive evidence that the individual is authorized to sign and certify the report on behalf of the business.

Additionally, if anyone other than an employee, owner, partner, or officer of the business is paid to prepare the return, he or she is required to sign and date the return and provide his or her mailing address.

Third-party designee

If you want to authorize another individual (third-party designee) to discuss this tax return with the New York State Tax Department mark an **X** in the **Yes** box in the third-party designee area of your return. Also print the designee's name, phone number, email address, and any five-digit number the designee chooses as his or her personal identification number (PIN).

If you want to authorize the paid preparer who signed your return to discuss the return with the Tax Department, print the preparer's name in the space for the designee's name and enter the preparer's phone number in the space for the designee's phone number. You do not have to provide the other information requested. If you do not want to authorize another person, mark an **X** in the **No** box.

If you mark the **Yes** box, you are authorizing the Tax Department to discuss with the designee any questions related to this return. You are also authorizing the designee to give and receive confidential taxpayer information relating to:

- this return, including missing information,
- any notices or bills arising from this filing that you share with the designee (they will not be sent to the designee),
- any payments and collection activity arising from this filing, and
- the status of your return or refund.

This authorization will not expire but will only cover matters relating to this return. If you decide to revoke this designee's authority at any time, call us (see *Need help?*).

You are not authorizing the designee to receive your refund, bind you to anything (including any additional tax liability), or otherwise represent you before the Tax Department. If you want someone to represent you or perform services for you beyond the scope of the third-party designee, you must designate the person using a power of attorney (for example, Form POA-1, *Power of Attorney*).

Paid preparer's responsibilities

Under the law, all paid preparers must sign and complete the paid preparer section of the form. Paid preparers may be subject to civil and/or criminal sanctions if they fail to complete this section in full.

When completing this section, enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. If you are not required to have a NYTPRIN, enter in the *NYTPRIN excl. code* box one of the specified 2-digit codes listed below that indicates why you are exempt from the registration requirement. You **must** enter a NYTPRIN or an exclusion code. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your SSN.

| Code | Exemption type | Code | Exemption type |
|------|------------------------|------|--|
| 01 | Attorney | 02 | Employee of attorney |
| 03 | CPA | 04 | Employee of CPA |
| 05 | PA (Public Accountant) | 06 | Employee of PA |
| 07 | Enrolled agent | 08 | Employee of enrolled agent |
| 09 | Volunteer tax preparer | 10 | Employee of business preparing that business' return |

Payment and mailing addresses

Make your check or money order payable in U.S. funds to:

Commissioner of Taxation and Finance. Write on your check or money order **Form MT-203**, your identification number, and the period that you are reporting.

If your payment is returned by a bank, the Tax Department is allowed by law to charge a \$50 fee for nonpayment. However, if the payment is returned as a result of an error by the bank or department, the department will not charge the fee. If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

Attach your remittance to the return and mail to:

**NYS TAX DEPARTMENT
TOBACCO PRODUCTS TAX
PO BOX 15197
ALBANY NY 12212-5197**

Private delivery services – If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Part 2 – Snuff

Enter your legal name, EIN, and the filing period at the top of each page of your Form MT-203.

Acquisitions of snuff during the month

Line 23 – Enter the total snuff acquired (from Form MT-203-S, line 19). Out-of-state distributors, enter the total snuff sold, shipped, or delivered into New York State during the month.

Distributions of snuff made during the month on which the tobacco products tax is not due

All entries on lines 24 through 29 must be supported by invoices, receipts, or other supporting documentation, to establish that the product was distributed in a nontaxable manner. Failure to maintain the documentation will result in the disallowance of these amounts.

Line 28 – Enter the total snuff sold to others who are exempt from the tax on snuff. Others who may be exempt include: a) diplomatic missions and diplomatic personnel; and b) voluntary unincorporated organizations of the armed forces of the United States.

Line 29 – Enter the total snuff that is unfit for use and consumption, is unsalable, or has been destroyed. If you return snuff to a manufacturer or other seller, attach a signed statement from the manufacturer or other seller documenting the return of snuff. Attach a copy of any approval from the Alcohol and Tobacco Tax and Trade Bureau.

Computation of tax on snuff

Line 32 – Enter the total quantity of snuff included on line 23 on which the tax on snuff was paid or assumed by the distributor that sold you the tobacco products. You must keep the invoices stating who paid or assumed payment of the tax, the date, the quantity, and the price of the snuff for at least three years or you will be liable for the tax.

Example: *Distributor 1 imports 100 ounces of snuff into New York State and pays the proper tax using Form MT-203. Distributor 1 sells the 100 ounces of snuff to Distributor 2 with the taxes included. Distributor 2 should include the 100 ounces of snuff on line 23 and deduct 100 ounces of snuff on line 32.*

Part 3 – Little cigars

Enter your legal name, EIN, and the filing period at the top of each page of your Form MT-203.

Acquisitions of little cigars during the month

Line 38 – Enter the total little cigars acquired (from Form MT-203-S, line 29). Out-of-state distributors, enter the total little cigars sold, shipped, or delivered into New York State during the month.

Distributions of little cigars made during the month on which the tobacco products tax is not due

All entries on lines 39 through 44 must be supported by invoices, receipts, or other supporting documentation, to establish that the product was distributed in a nontaxable manner. Failure to maintain the documentation will result in the disallowance of these amounts.

Line 43 – Enter the total little cigars sold to others who are exempt from the tax on little cigars. Others who may be exempt include: a) diplomatic missions and diplomatic personnel; and b) voluntary unincorporated organizations of the armed forces of the United States.

Line 44 – Enter the total little cigars that are unfit for use and consumption, are unsalable, or have been destroyed. If you return little cigars to a manufacturer or other seller, attach a signed statement from the manufacturer or other seller documenting the return of little cigars. Attach a copy of any approval from the Alcohol and Tobacco Tax and Trade Bureau.

Computation of tax on little cigars

Line 47 – Enter the total quantity of little cigars included on line 38 on which the tax on little cigars was paid or assumed by the distributor that sold you the tobacco products. You must keep the invoices stating who paid or assumed payment of the tax, the date, the quantity, and the price of the little cigars for at least three years or you will be liable for the tax.

Example: *Distributor 1 imports 1000 little cigars into New York State and pays the proper tax using Form MT-203. Distributor 1 sells the 1000 little cigars to Distributor 2 with the taxes included. Distributor 2 should include the 1000 little cigars on line 38 and deduct 1000 little cigars on line 47.*

Instructions for Form MT-203-S

Enter your legal name, EIN, and the filing period on Form MT-203-S. All quantity amounts must be reported either as the number of cigars, pounds of tobacco, number of little cigar packs, containers of snuff, or ounces of snuff. Do not round dollar amounts or ounces of snuff.

If you need additional space for any schedule, attach a separate sheet of paper to Form MT-203-S listing the requested information in the same format.

Acquisitions – Schedules 1 through 6

Complete each schedule by filling in all of the requested information for each acquisition of tobacco products.

Schedule 2 – For tax-paid purchases, use the price you paid to another distributor with taxes included. See the instructions for Form MT-203, line 12.

Schedules 5 and 6 – For packs containing other than 20 little cigars, enter the amounts as equivalent 20 packs in the appropriate little cigars column of schedule 5, 6, 11, or 12.

Example 1: *A distributor purchased tax-free from its supplier 3 boxes of little cigars containing 50 little cigars per box. The distributor should enter 7.5 on schedule 5. (Each box contains 2.5 equivalent 20 packs [50/20 = 2.5]. 3 boxes X 2.5 = 7.5.)*

Example 2: *A distributor purchased tax-free from its supplier 1 pack of little cigars containing 5 little cigars. The distributor*

should enter .25 on schedule 5. (Each pack contains .25 equivalent 20 packs [5/20 = .25]. 1 pack X .25 = .25.)

Example 3: *You purchase a case of 600 little cigars (5 little cigars per pack X 120 packs). Convert this amount to 30 packs of little cigars (600/20 = 30 equivalent packs).*

Transfers and sales – Schedules 7 through 12

Sales out of state – In order to sell tobacco products tax free to an out-of-state purchaser, possession of the tobacco products must be **transferred to the purchaser at a point outside New York State**. (If an out-of-state purchaser or such purchaser's agent takes possession of tobacco products within New York State, the tobacco products tax is **not** refundable to you.)

When entering the wholesale price to be deducted, use the wholesale price upon which the tobacco products tax **was paid** or **is payable** to the New York State Tax Department by you or by another distributor.

Example 1: *Distributor 1 imports \$1,000 of tobacco products and pays a tobacco products tax of \$750 (\$1,000 wholesale price x 0.75 tax rate). Distributor 1 sells 40% of these products to customers located outside of New York State for \$800. Distributor 1 should enter \$400 (\$1,000 x 0.40) on Schedule 8 as the wholesale price of tobacco products sold to customers out of state; that is, 40% of the wholesale price on which the tax was paid by Distributor 1.*

Example 2: *Distributor 1 imports \$1,000 of tobacco products and pays a tobacco products tax of \$750 (\$1,000 wholesale price x 0.75 tax rate). Distributor 1 sells all of these products to Distributor 2 for \$2,000. Distributor 2 sells all of the products to customers located outside of New York State. Distributor 2 should enter \$1,000 on Schedule 8 as the wholesale price of tobacco products sold to customers out of state; that is, the wholesale price on which the tax was paid by Distributor 1.*

If you made transfers or sales to customers in two or more states, attach a separate copy of Schedules 7 through 12 or separate sheets of paper to Form MT-203-S for each state listing this information in the same format. Fill in the state name then enter all of the requested information for each separate transfer or sale of cigars, little cigars, snuff, or other tobacco products made to locations or purchasers in that state. Enter your legal name and EIN on each attachment.

Distributions – No tax due

Schedules 7 and 8 – If tax was paid on the invoice price you paid to the manufacturer, enter the wholesale price on which the tobacco products tax was paid. If tax was paid or assumed by another distributor, enter the wholesale price on which the tobacco products tax was paid or assumed by the distributor that sold you the tobacco products.

Although a schedule is not required to compute lines 6 through 8 on Form MT-203-S, use the same methodology referenced for Schedules 7 and 8 when reporting wholesale price.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our website at ***www.tax.ny.gov***

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Miscellaneous Tax Information Center: 518-457-5735

To order forms and publications: 518-457-5431

Text Telephone (TTY) or TDD
equipment users Dial 7-1-1 for the
New York Relay Service