



Instructions for Form MT-203

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

MT-203-I

(4/09)

General information

Who must file

A distributor must complete this return 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.

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 include any cigar or tobacco, other than cigarettes, intended for consumption by smoking, chewing, or as snuff.

Wholesale price is the established price for which a manufacturer sells tobacco products to a distributor before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of the established price, the wholesale price is the manufacturer's invoice price, and in its absence, the wholesale price is the price at which the tobacco products were purchased, unless evidence of a lower wholesale price is established or any industry standard of markups relating to the purchase price in relation to the wholesale price is established. In any event, the wholesale price is the invoice cost without allowance of any quantity discount, cash discount, or any other reduction. **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 snuff) is **37% (.37)** of the wholesale price prior to April 7, 2009. Beginning April 7, 2009, the excise tax rate on tobacco products (other than snuff) is **46% (.46)** of the wholesale price.

The New York State excise tax rate on snuff is 96 cents (\$0.96) 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 96 cents (\$0.96) per container.

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 3. An out-of-state distributor is not required to complete Form MT-203-S. See *Out-of-state distributors* on page 2 for more information.

Tax period and taxpayer identification

Enter the month and year of the period covered by this return if they are not preprinted.

Enter your legal name, trade name, complete address, and taxpayer ID (federal employer identification number or social security number) if they are not preprinted. If the printed information is incorrect, make the appropriate corrections on the return **and** complete Form DTF-95, *Business Tax Account Update*. If only your address is incorrect, file Form DTF-96, *Report of Address Change for Business Tax Accounts*. If you need a copy of either form, see *Need help?* on page 4.

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* on page 3).

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* on page 3).

Amended return — Mark an **X** in the box if this return amends a previous return. Enter the month and year of the period covered by the amended return in the space provided. 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.

Keep these instructions for your records.

Line instructions

Show any negative amounts using a minus (-) sign.

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, or 24 on Form MT-203. On Form MT-203, lines 1 through 3, 6 through 9, and 25 through 28, enter the amounts that relate to the tobacco products you sold, shipped, or delivered to any person located in New York State. On line 22, enter the total snuff you sold, shipped, or delivered to any person located in New York State.

Acquisitions of tobacco products (other than 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 snuff) made during the month on which tax is not due

All entries on lines 4 through 9 must be supported by invoices, receipts, etc., 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.

Line 8 — Enter the total wholesale price of tobacco products (other than 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 snuff) that are unfit for use and consumption, are unsalable, or have been destroyed. If you returned tobacco products (other than 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 another appointed distributor of 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 tobacco product for at least three years or you will be liable for the tax.

Line 14 — Determine the amount of the total wholesale price reported on line 13 that applies to products manufactured or imported prior to April 7, 2009. Multiply this amount by **37% (.37)**. Determine the amount of the total wholesale price reported on line 13 that applies to products manufactured or imported on or after April 7, 2009. Multiply this amount by **46% (.46)**. Add the two amounts together and enter the result on line 14.

Lines 15 through 21 — Complete lines 22 through 35 on the back of Form MT-203 before continuing with lines 15 through 21.

Line 17 — Deduct any overpayment or add any underpayment from previous returns. Attach a complete explanation.

Note: If you filed an amended return to report changes to a prior return, you may **not** claim that adjustment on line 17.

Line 19 — 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. If you need help in computing the interest, see *Need help?* on page 4.

Line 21 — 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 – TTTB, Tobacco Products – Refund Claims, W A Harriman Campus, Albany NY 12227.

You may request that the full amount or any portion of the overpayment shown on line 18 be refunded. However, you may not claim a credit for the overpayment on your return on line 21 and apply for a refund of the same overpayment.

Generally, 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.

Acquisitions of snuff during the month

Line 22 — 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 23 through 28 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 27 — 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 28 — 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 31 — Enter the total quantity of snuff included on line 22 on which the tax on snuff was paid or assumed by another appointed distributor of 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.

Certification

You must sign and date your return, and include your official title. The signer must be an owner if an individual, a partner if a partnership, or the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer authorized to act in that capacity, if a corporation. The fact that an individual's name is signed on the certification of the report shall be *prima facie* evidence that such individual is authorized to sign and certify the report on behalf of the distributor.

Payment and mailing addresses

Make your check or money order payable 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. Attach your remittance to the return and mail to:

**NYS TAX DEPARTMENT
TOBACCO PRODUCTS TAX
PO BOX 1833
ALBANY NY 12201-1833**

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, 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 4

Schedules 1 and 2 are for reporting purchases of tobacco products other than snuff. Schedules 3 and 4 are for reporting purchases of snuff. Complete each schedule by filling in all of the requested information for each acquisition of tobacco products.

Transfers and sales – Schedules 5 through 8

Schedules 5 and 6 are for reporting transfers and sales of tobacco products other than snuff. Schedules 7 and 8 are for reporting transfers and sales of snuff.

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 \$460 (\$1,000 wholesale price x 0.46 tax rate). Distributor 1 sells 40% of these products to customers located outside of New York State for \$500. Distributor 1 should enter \$400 (\$1,000 x 0.40) on Schedule 6 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 \$460 (\$1,000 wholesale price x 0.46 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 6 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 5 through 8 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, snuff, or other tobacco products made to locations or purchasers in that state. Enter your legal name and EIN on each attachment.

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your return and tax payment. However, if, at a later date, you need to establish the date you filed your return or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* below for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your return, contact that private delivery service for instructions on how to obtain written proof of the date your return was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: NYS Tax Department, Misc. Tax Insourcing Unit, W A Harriman Campus, Albany NY 12227.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.
Miscellaneous Tax Information Center: (518) 457-5735
For in-state callers without free long distance: 1 800 470-4353
To order forms and publications: (518) 457-5431
For in-state callers without free long distance: 1 800 462-8100



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.