



Instructions for Form MT-201

Tobacco Products Use Tax Return

Who is subject to the tobacco products use tax

The state excise tax on tobacco products has two components that together ensure that the proper New York State tobacco products tax is paid:

- the tobacco products tax imposed on possession for sale in the state pursuant to Tax Law § 471-b; and
- the tobacco products use tax imposed pursuant to Tax Law § 471-c.

The tobacco products use tax must be paid by any person who uses (that is, possesses, imports, and so on) tobacco products in the state, not including possession for sale, on which the New York State tobacco products tax has not been paid and where the use of the tobacco products is not exempt from the Article 20 tax (see *Exemptions from the tobacco products use tax below*).

Note: Form CG-15, *Cigarette Use Tax Return*, must be completed if you use cigarettes on which the New York State cigarette tax has not been paid and where the use of the cigarettes in this state is not exempt from the Article 20 tax. If the cigarette packs are unstamped or are stamped with another taxing jurisdiction's stamps, then the cigarettes are considered unstamped for New York State tax purposes and the state cigarette use tax is due. Additionally, there is a city excise tax on cigarettes used in New York City. To obtain a copy of Form CG-15, see *Need help?*.

When to file Form MT-201

Form MT-201 must be filed and the use tax paid within 24 hours after the liability for the tobacco products use tax occurs (that is, within 24 hours after the bringing, receiving, or other use of tobacco products in New York State, other than possession for sale).

Note: A person that possesses tobacco products for purposes of sale may be required to be licensed with New York State as a wholesale dealer of tobacco products and/or as a distributor of tobacco products, as well as registered as a retail dealer. For applications, information, and the appropriate tax returns, see *Need help?*.

Rates

The New York State use tax rate on tobacco products (other than snuff and little cigars) is 75% (.75) of the wholesale price. See *Definitions* for *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 \$4.35 for packs containing 20 or less little cigars. For packs containing more than 20, the additional little cigars are taxed at a rate of \$1.0875 for each five little cigars or fraction thereof. For packs containing 21-25 little cigars, the tax rate is \$5.4375 per pack. For packages containing **more** than 25 little cigars, divide the quantity by 25 and multiply by the rate per 25 pack.

Example: A box of little cigars contains 60 little cigars. The excise tax rate on this package is \$13.05. ($60 / 25 = 2.4$ equivalent 25 packs. $2.4 \times \$5.4375$ tax rate = \$13.05.)

Note: The rate of the tobacco product use tax is equal to the rate of the tobacco products tax. Either the tobacco products tax or the tobacco products use tax must be paid.

Exemptions from the tobacco products use tax

The tobacco products use tax must be paid on all tobacco products used in the state, **unless**:

- The New York State tobacco products tax (imposed pursuant to Tax Law § 471-b) has been paid, as evidenced by an invoice from the distributor or dealer stating that the tobacco products tax has already been assumed and paid directly to New York State.

- The tobacco products being used are specifically exempted from the New York State tobacco products tax by Tax Law § 471-b (thus, governmental use by the United States, the state of New York, and the United Nations, and use by authorized persons purchasing from a voluntary unincorporated organization of the armed forces of the U.S., are exempt uses).

- The tobacco products being used are brought into the state on or in the possession of the user, and the amount of such tobacco products does not exceed (a) 250 cigars (including little cigars), (b) five pounds of tobacco (including snuff), or (c) 36 ounces of roll-your-own (RYO) cigarette tobacco.

Note: Tobacco products shipped into New York State by mail are **not** brought into the state **on** or **in the possession of the user**, and therefore do not qualify for the exemption.

If more than 250 cigars (including little cigars) are brought into the state, then the **entire** quantity of cigars is subject to tax. If more than five pounds of tobacco (including snuff) are brought into the state, then the **entire** quantity of tobacco is subject to tax. If more than 36 ounces of RYO cigarette tobacco is brought into the state, then the **entire** quantity of tobacco is subject to tax.

Tobacco products acquired by an individual to be given as a gift to another individual are **not** exempt because the law does not exempt gifts of tobacco products.

Definitions

Use means the exercise in New York State of any right or power, actual or constructive, with respect to tobacco products; includes, but is not limited to, the receipt, storage, or any keeping or retention for any length of time, but does not include possession for sale.

Snuff means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Cigar 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 as defined in Tax Law section 470(1)). Except when expressly excluded, a *little cigar* is considered a cigar.

Little cigar means any roll for smoking made wholly or in part of tobacco if the 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.

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

Roll-your-own tobacco means any tobacco product that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

Person means an individual, copartnership, society, association, corporation, joint stock company, and any combination of individuals, and also an executor, administrator, receiver, trustee, or other fiduciary.

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 considered a discount. The use tax must be paid on such tobacco products based on the ordinary or usual wholesale price of such tobacco products.

Taxpayer identification

Enter your legal name, complete address, and your social security number in the spaces provided on the front of the return. If other than an individual, enter your employer identification number (EIN).

Example: On June 5 you acquired five cans of snuff that are each under one ounce. On the same day you acquired seven cans of snuff that were each 1.25 ounces for a total of 8.75 ounces of snuff in containers of more than one ounce. The use tax on snuff is calculated as follows:

		A Number of containers less than 1 ounce	B Total ounces in containers of 1 ounce or more (do not round)
1 Total snuff	1	5	8.75
2 New York State rate of use tax on snuff (per ounce).....	2	2.00	2.00
3 New York State use tax on snuff (multiply line 1 by line 2)	3	10 00	17 50
4 Total (add line 3, columns A and B; enter here and on line 8).....		4	27 50

Part 1 – Snuff

List all snuff that you received, possessed, or otherwise brought into New York State for purposes other than for sale on which New York State tobacco products tax has not been paid, and where the use of the snuff is not exempt from Article 20 tax.

Complete this part by filling in all of the requested information.

See *Example* above.

Part 2 – Little cigars

List all little cigars that you received, possessed, or otherwise brought into New York State for purposes other than for sale on which New York State tobacco products tax has not been paid, and where the use of the tobacco products is not exempt from Article 20 tax.

Complete this part by filling in all of the requested information.

Example: For a pack of 25 little cigars, the tax rate will be \$5.4375 (\$4.35 + \$1.0875).

Part 3 – Tobacco products other than snuff and little cigars

List all tobacco products (other than snuff and little cigars) that you received, possessed, or otherwise brought into New York State for purposes other than for sale on which New York State tobacco products tax has not been paid, and where the use of the tobacco products is not exempt from Article 20 tax.

Complete this part by filling in all of the requested information.

Part 4 – Computation of tobacco products use tax

Line 12 – Enter the New York State use tax on snuff from line 4. Do not round this number.

Line 15 – For failure to pay any tax due, the penalty is 50% (.50) of the tax due for the first month or part of the month, plus 1% (.01) of the tax due for each month thereafter.

In addition, failure to file the required returns or pay any tax due under Tax Law Article 20 may result in the imposition of criminal penalties under Tax Law Article 37.

Line 16 – Interest is computed at the rate set by the Commissioner of Taxation and Finance and is compounded daily. Interest is computed from the date the tax was due until the date the tax is paid. Interest is a charge for the use of state funds and may not be waived. If you require assistance in the computation of interest, call the *Miscellaneous Tax Information Center* (see *Need help?*).

Line 18 – Make your check or money order payable in U.S. funds to: **Commissioner of Taxation and Finance.**

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.

Mailing address

Attach your remittance and photocopies of the purchase invoices to your return and mail to:

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

Private delivery services

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

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