

**Instructions for Form FT-946/1046****Motor/Diesel Motor Fuel Tax
Refund Application**

Any person who purchased motor/diesel motor fuel on which the fuel excise tax was passed through and who used the fuel in a nontaxable manner may be entitled to a refund. This form should **not** be used to apply for a refund for the following, instead:

- An omnibus carrier must use Form TP-164.14 (motor fuel) or Form FT-1006 (diesel motor fuel) to obtain a refund for motor/diesel motor fuel consumed in an omnibus in this state.
- A taxicab licensee must use Form FT-1011 (motor/diesel motor fuel) to obtain a refund for motor/diesel motor fuel consumed in a taxicab in this state.
- A registered 12-A distributor must claim the credit or refund on Forms PT-100, PT-101, and PT-102.
- A commercial fisherman must claim a refund of the motor/diesel motor fuel tax on Form AU-631, *Claim for Refund/Reimbursement of Taxes Paid on Fuel Used in a Vessel Engaged in Commercial Fishing*.
- A farmer must claim a refund of the **motor fuel** tax on Form FT-420, *Refund Application for Farmers Purchasing Motor Fuel*.

Mark an **X** in the box under section A, B, C, or D that indicates your type of operation and enter any other requested information.

A — Nontaxable use (off highway) is the use of the fuel in any manner other than in the operation of a motor vehicle upon or over the highways of New York State **or** in the operation of a pleasure or recreational motor boat upon or over the waterways of this state including waterways bordering on this state.

If claiming a refund for fuel used in refrigerator (reefer) trailers, the carrier must be able to determine how much fuel was used in the reefer trailer. No refund is allowed for fuel used in the operation of a truck or tractor (motor vehicle) over the highways of New York State.

B — Refund assignment – Any person who purchased motor/diesel motor fuel and is entitled to a refund of the excise tax may assign that refund if certain criteria are met.

In order for the refund to be assigned, the Tax Department must receive a statement, bearing the original signature of the assignor (purchaser of the fuel), that includes the following:

- name of the assignee;
- the purpose for assigning the refund (e.g., you want to contribute the refund to an organization or club for which you are a member);
- a description of the grounds upon which the refund is being requested (e.g., motor fuel used in snowmobiles off the highways of New York State); and
- the intent of the assignor to clearly and unconditionally assign the refund.

Sales to nonairline aircraft operators (kero-jet fuel only) – A refund assignment is allowed for sales of kero-jet fuel that are made from your fixed-base facility and delivered directly into the fuel tank of the nonairline operator's aircraft. The fuel must be consumed in the operations of the aircraft. For additional information on this refund assignment, refer to Important Notice N-88-56, *Notice to Sellers of Kero-Jet and Marine Diesel Fuel Refund Assignment Policy*, and Form FT-1049, *Aircraft Operator Agency Appointment for Article 12-A Diesel Motor Fuel Excise Tax Refund Purposes*.

Used by snowmobile club members (motor fuel only) – A refund assignment is allowed for sales of motor fuel (gasoline) at retail for use in snowmobiles, except if used on the highways of New York State. Snowmobile club members, under box B, agree to assign their refund, for purchases of motor fuel for use in their snowmobiles, to the club.

C — Nontaxable sales – Any retail vendor or supplier who is not a registered 12-A distributor, and who has purchased motor/diesel motor fuel on which the fuel excise tax has been passed through and has subsequently sold the fuel to an exempt purchaser (without the tax passed through), may claim a reimbursement.

The following are considered exempt purchasers and/or sales:

New York State and municipalities – Departments and agencies of New York State or any political subdivision thereof, including school and fire districts.

United States – Includes any department, office, bureau, or any other agency or instrumentality of the government of the United States.

Airlines (kero-jet fuel only) – An airline includes: (a) an air carrier of persons, property, and mail operating under a *Certificate of Public Convenience and Necessity* issued by the Federal Aviation Administration (FAA), or a foreign air carrier holding an equivalent certificate issued by the carrier's respective sovereign government; (b) an air carrier holding a *Certificate for All-Cargo Air Service* issued by the FAA; and (c) an air taxi operator who is classified by the FAA as a *commuter air carrier* or who (i) performs at least five round trips per week between two or more points and publishes flight schedules that specify the times and days of the week and places between which such flights are performed or (ii) transports mail by air pursuant to a contract with the United States Postal Service.

Sales for heating purposes (diesel motor fuel only) – Any retail vendor who is not a registered 12-A distributor, who purchased diesel motor fuel on which the diesel motor fuel tax has been passed through to the retail vendor, and who sold the fuel for heating purposes in containers of 10 gallons or less, may be entitled to a reimbursement of the diesel motor fuel tax.

Exempt hospital – All nontaxable sales (box C) to hospitals apply to motor fuel only. Exempt hospitals (box D) may apply for reimbursement for both motor fuel and diesel motor fuel. An exempt hospital has a current operating certificate issued by the New York State Department of Health under section 2805 of the Public Health Law or by the New York State Department of Mental Hygiene pursuant to the authority of Article 31 of the Mental Hygiene Law, and is qualified as an exempt organization under section 1116(a)(4) of the Tax Law and has a valid *Exempt Organization Certificate* (Form ST-119) issued by the New York State Tax Department. List the sales tax exemption number for all sales to, or uses by, exempt hospitals.

Sales for immediate export (motor fuel only) – These are sales to purchasers registered or licensed as a distributor or dealer of motor fuel by the taxing authority of the other state/province who purchased motor fuel for immediate export to an identified facility in that state/province. Form FT-936,

Statement of Exportation of Motor Fuel by Purchaser, must have been received from the purchaser.

Sales of E85 to filling stations – These are sales of E85 delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle.

D — Specific organizations entitled to reimbursements

of the New York State motor/diesel motor fuel tax paid on the fuel consumed for their own purpose in New York State, under section 289-c of the Tax Law, include the following:

Any organization that purchased fuel in New York State on which the motor/diesel motor fuel tax was passed through to the purchaser who used the fuel exclusively for exempt purposes may be entitled to a reimbursement of the fuel excise tax.

Voluntary ambulance services – Any voluntary ambulance service as defined in section 3001 of the Public Health Law and operating as an ambulance service with a valid ambulance service statement of registration.

Volunteer rescue squad – Any volunteer rescue squad supported in whole or in part by tax money.

Volunteer fire company or department – Any volunteer fire company or department as defined in section 3 of the Volunteer Firefighters' Benefit Law, supported in whole or in part by tax money.

Nonpublic school operator – Any nonpublic elementary or secondary school that owns or leases and operates any vehicles solely for use in educational-related activities.

Exempt hospital, New York State and the United States – See definitions in *Box C* instructions.

Indian tribe or nation – Any of the following tribes or nations who purchased fuel on a qualified reservation when the motor/diesel motor fuel tax was passed through, and who used or consumed the fuel for their own purpose.

Exempt tribes or nations located in New York State:

Cayuga	Poospatuck	Shinnecock
Oneida	St. Regis Mohawk	Tonawanda Band of Senecas
Onondaga	Seneca	Tuscarora

Qualified reservations located in New York State:

Allegany	Oneida	St. Regis	Tonawanda
Cattaraugus	Onondaga	Shinnecock	Tuscarora
Oil Spring	Poospatuck		

Member of exempt Indian tribe or nation – A member of an exempt Indian tribe or nation may qualify for reimbursement if the member is not purchasing fuel for resale in the operation of a business and takes delivery of the fuel on a qualified reservation primarily for use on the reservation.

A member of an exempt Indian tribe or nation must complete the certification on the front of Form FT-946/1046, Motor/Diesel Motor Fuel Tax Refund Application.

General Information

An application for refund must include all refunds claimed for the period beginning on the **first** and ending on the **last** day of the calendar month; however, a claimant may include two or more complete months in a single application. **In no case will a refund be made for purchases made more than three years before the date of filing the claim.**

Sales invoices, delivery tickets, or preferably **monthly statements** signed by the dealer and showing name and address of dealer,

name and address of claimant, date of purchase (month, day, and year), number of gallons, type of fuel purchased, and the fact that the tax was included in the purchase price, are required. After the claim has been paid, the evidence of purchase will be returned if a stamped, self-addressed envelope with correct postage affixed is forwarded to this office.

A claim for refund of tax paid on the fuel should be based upon the following records (including the original records), which must be kept for three years and be produced at any time for audit by the Tax Department:

- A record of all purchases of motor/diesel motor fuel by the claimant and a record of the manner in which all fuel was used.
- If a storage tank, drum, or container is used, the claimant must also keep a record of the quantity of motor/diesel motor fuel put into the storage tank, drum, or other container, and a record of all withdrawals.

If a transcript or summary of the record is attached to the refund claim, it will be helpful in auditing the claim and will eliminate letters of inquiry.

If you are filing a sales tax and/or petroleum business tax claim and this motor/diesel motor fuel tax refund claim for the same gallonage of fuel, you must submit the same substantiation required by the other claims with this form.

Beginning September 1, 2006, B20 purchased in New York State is taxed at 80% of the rate applicable to diesel motor fuel.

B20 means a mixture consisting by volume of 20% biodiesel and the remainder of which is diesel motor fuel.

Biodiesel means a diesel motor fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D6751-02a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

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 Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.