Annual Schedule FR Instructions

Sales and Use Tax on Qualified Motor Fuel and Diesel Motor Fuel

For tax period:
March 1, 2008, through February 28, 2009

Who must file

Vendors selling *qualified fuel* at retail **or** reporting tax on the self-use of such fuel must file Form ST-101.10, *Annual Schedule FR,* to report tax on their taxable sales and uses of these fuels during the period covered by the return.

Qualified fuel means motor fuel or diesel motor fuel that is:

- sold for use directly and exclusively in the engine of a motor vehicle; or
- sold by a *retail gas station* (other than water-white kerosene sold exclusively for heating purposes in containers of no more than twenty gallons).

Retail gas station means a filling station where motor fuel or diesel motor fuel is stored primarily for sale by delivery directly into the ordinary fuel tank connected with the engine of a motor vehicle to be consumed in the operation of such motor vehicle. A *retail gas station* also includes a filling station where motor fuel or diesel motor fuel is stored primarily for sale by delivery directly into the ordinary fuel tank connected with the engine of a vessel to be consumed in the operation of the vessel (e.g., a marina gas station).

If a business qualifies as a retail gas station, any motor fuel or diesel motor fuel it sells (other than water-white kerosene sold exclusively for heating purposes in containers of no more than twenty gallons) is qualified fuel and must be reported on this schedule.

Qualified fuel includes motor fuel and diesel motor fuel sold by vendors other than retail gas stations if the fuel is used directly and exclusively in the engine of a motor vehicle (e.g., qualified fuel would include motor fuel or diesel motor fuel sold by a distributor to a bulk purchaser who will use the fuel exclusively in its fleet of rental cars). Any vendor of fuels that is **not** a retail gas station must compute the sales tax due using the percentage rate method unless the purchaser gives the vendor a properly completed Form ST-121, *Exempt Use Certificate*, as explained in TSB-M-06(8)S, *New Guidelines on the Sales of Motor Fuel and Diesel Motor Fuel Subject to the Cents-Per-Gallon Sales Tax*. If the vendor receives and accepts a properly completed Form ST-121, the fuel is considered qualified fuel and the sale must be reported on this schedule.

Sales of motor fuel or diesel motor fuel that is not qualified fuel must be reported on the appropriate jurisdiction line on Form ST-101, *New York State and Local Annual Sales and Use Tax Return*. This includes sales of fuel sold for commercial heating purposes, fuel sold for use in manufacturing and sales by fixed base operators of aviation gasoline or kero-jet fuel for use in an aircraft.

There is a partial exemption from state and local sales taxes on the sale or use of B20 biodiesel that is qualified fuel. If a jurisdiction currently imposes its local sales tax on qualified fuel using the cents-per-gallon method (listed in Step 4 of this schedule), the law provides that its cents-per-gallon rate on the sale or use of qualified B20 is 80% of the regular rate that applies to qualified fuel. If a jurisdiction imposes its local sales tax on qualified fuel using the percentage rate method (listed in Step 5 of this schedule), the local sales tax on sales of qualified B20 is determined by multiplying 80% of the taxable receipt by the percentage rate for the jurisdiction.

Sales and uses of qualified B20 are reported in Steps 3A, 4A, and 5 of this schedule. See the instructions for Steps 3A, 4A, and 5, and TSB-M-06(10)S, *Sales Tax Exemptions and Reductions for Certain Alternative Fuels Beginning September 1, 2006*, for more information.

Retail sales and uses of hydrogen, E85, and compressed natural gas (CNG) that are qualified fuels are fully exempt from the state and local sales tax.

Sales of these qualified fuels are reported only in Step 1, *Summary of gallons sold* under *Non-taxable gallons sold*, and as part of your gross sales in Step 2, *Summary of gross sales and total credits*.

Specific instructions

Identification number and name

Print the sales tax identification number and legal name as shown on Form ST-101, or on your business's *Certificate of Authority* for sales and use tax. If you file single pages (e.g., printed from Web site), please **also** enter your sales tax identification number at the top of each page where space is provided.

Reporting sales and self-use of qualified motor fuel and diesel motor fuel

For Steps 3 through 5, reduce the amount of taxable gallons to be entered on a jurisdiction line by the amount of any credits related to that jurisdiction. If the result is a negative number, precede it with a minus sign (-).

Entries in Columns C and D must include the total dollar value (or gallons, where applicable) of taxable retail sales and self-use of qualified motor fuel and diesel motor fuel for the period covered by this return. Report your taxable sales (or gallons) and self-use on the line for the jurisdiction in which the fuel is delivered to the customer or in which you use it.

- If you make sales of qualified motor fuel or diesel motor fuel at your place of business, you must report the sales on the line for the taxing jurisdiction in which your business is located and compute the tax at the rate in effect for that jurisdiction.
- If you deliver the qualified fuel to your customer, either directly or by common carrier, you must compute the tax at the rate in effect in that jurisdiction.

STEP 1 — Summary of gallons sold

Taxable gallons sold — Motor fuel

Enter the number of taxable gallons of qualified motor fuel sold in New York State during the annual period for which this schedule is being filed. Separate your gallons sold into three categories: Regular, mid-grade, and premium. Include propane (dispensed into the fuel tank of a motor vehicle) in the *Regular* category.

Taxable gallons sold — Diesel motor fuel

Enter the total number of taxable gallons of qualified diesel motor fuel sold during the annual reporting period.

Non-taxable gallons sold

Enter the combined total of non-taxable gallons of qualified motor fuel (combining regular, mid-grade, and premium) and qualified diesel motor fuel sold during the annual reporting period. Include sales of E85, hydrogen, and CNG in this amount. See TSB-M-06(10)S for more information on the exemption from sales tax on these alternative fuels.

STEP 2 — Summary of gross sales and total credits

Gross sales of motor fuel and diesel motor fuel

Enter the total dollar amount of sales made for all types of qualified motor fuel and diesel motor fuel. Include exempt sales in this amount. **Do not** include the amount of sales tax collected. Include sales of E85, hydrogen, and CNG in this amount. See TSB-M-06(10)S for more information on the exemption from sales tax on these alternative fuels.

To compute your **gross sales** of qualified fuel sold using a tax-included pump price:

1. subtract the New York State 8 cents-per-gallon and Metropolitan Commuter Transportation District (MCTD) ¾ cents-per-gallon sales tax (if applicable) from the pump price;
2. subtract the local sales tax per gallon amount. See Publication 873, *Local Sales Tax Collection Charts for Qualified Motor Fuel and Diesel Motor Fuel Sold at Retail,* for all sales made in jurisdictions that continued to impose their local tax at a percentage rate. For sales made in jurisdictions that imposed their local tax at a cents-per-gallon rate subtract the amount shown for the jurisdiction in Step 4 (or Step 4A, for sales of B20 biodiesel). Note: for sales made in the cities of Rome (for the period December 1, 2008, through February 28, 2009), Sherrill (for the period March 1, 2008, through August 31, 2008), Utica (for the period March 1, 2008, through November 30, 2008), and Auburn, you must subtract both the amount from Publication 873 and the cents-per-gallon rate shown in Step 4 (or Step 4A, for sales of B20 biodiesel);
3. multiply the result by the number of gallons sold at that pump price; and
4. add the amounts determined in the preceding step for all pump prices.

Include sales of qualified fuel made in New York State (even if for delivery outside New York State) and sales made at business locations outside New York State for delivery into New York State. Do not include sales made at business locations outside New York State for delivery outside New York State.

Total credits against tax on motor fuel and diesel motor fuel

Enter the total amount of the credits that you can identify by jurisdiction and that will be claimed in Steps 3 through 5 as a subtraction from sales. You must attach substantiation for the credits reported in this box. Do not include the credit for prepaid sales tax on motor fuel and diesel motor fuel, which is claimed in Step 6.

STEP 3 — Calculate New York State/MCTD tax (cents-per-gallon)

Enter the total number of gallons of qualified motor fuel sold or removed from inventory for your use in Column C. Enter the total number of gallons of qualified diesel motor fuel sold or removed from inventory for your use in Column D. Sales and self-use in New York State outside the MCTD are subject to 8 cents-per-gallon state tax and are reported on the *New York State only* line. Sales and self-use in New York State within the MCTD are subject to 8 ¾ cents-per-gallon state tax and are reported on the *New York State/MCTD* line. For each line, add the amount in Column C to the amount in Column D and multiply the result by the cents-per-gallon rate in Column E. Enter the result in Column F. Add the amounts reported in Column F and enter the result in box 1.

STEP 3A – Calculate New York State/MCTD tax (cents-per-gallon) on B20 biodiesel only

Enter the total number of gallons of qualified B20 biodiesel sold or removed from inventory for your use in Column C. Sales and self-use in New York State outside the MCTD are subject to 6 cents-per-gallon state tax and are reported on the *New York State only* line. Sales and self-use in New York State within the MCTD are subject to 6.6 cents-per-gallon state tax and are reported on the *New York State/MCTD* line. For each line, multiply the amount in Column C by the cents-per-gallon rate in Column D. Enter the result in Column E. Add the amounts reported in Column E and enter the result in box 2.

STEP 4 — Calculate local sales tax by jurisdiction (cents-per-gallon)

The jurisdictions listed in Step 4 have enacted a cents-per-gallon rate method for computing sales tax on qualified fuel. Enter the total number of gallons sold or removed from inventory for your use on the line for the applicable taxing jurisdiction. For each line, add the amount in Column C to the amount in Column D and multiply the result by the cents-per-gallon rate in Column E. Enter the result in Column F. Add the amounts in Column F and enter the result in box 3.

Jurisdictions **not** listed in Step 4 have not enacted a cents-per-gallon option. Sales and self-use occurring in those localities must be reported in Step 5.

STEP 4A – Calculate local sales tax by jurisdiction (cents-per-gallon) on B20 biodiesel only

Enter the total number of gallons of qualified B20 biodiesel sold or removed from inventory for your use on the line for the applicable jurisdiction. For each line, multiply the amount in Column C by the cents-per-gallon rate in Column D. Enter the result in Column E. Add the amounts reported in Column E and enter the result in box 4.

STEP 5 — Calculate local sales tax by jurisdiction (percentage rate)

Columns C and D - Qualified motor fuel and diesel motor fuel taxable sales and self-use

The jurisdictions listed in Step 5 continue to impose their local sales tax using the percentage rate method.

Report your sales and self-use of qualified motor fuel and diesel motor fuel subject to local sales tax at the current local sales tax percentage rate.

To compute your **taxable sales** of qualified motor fuel and diesel motor fuel sold using a tax-included pump price:

1. subtract the New York State 8 cents-per-gallon and MCTD ¾ cents-per-gallon sales tax (if applicable) from the pump price;
2. subtract the local sales tax per gallon amount. See Publication 873 for all sales made in jurisdictions that continued to impose their local tax at a percentage rate. Note: for sales made in the cities of Rome (for the period December 1, 2008, through February 28, 2009), Sherrill (for the period March 1, 2008, through August 31, 2008), Utica (for the period March 1, 2008, through November 30, 2008), and Auburn, you must subtract both the amount from Publication 873 and the cents-per-gallon rate shown in Step 4 (or Step 4A, for sales of B20 biodiesel);
3. subtract the New York State motor fuel or diesel motor fuel excise tax (see Publication 908, *Fuel Tax Rates*, for the applicable cents-per-gallon rate); and
4. multiply the result by the number of taxable gallons sold at that pump price. This amount is the taxable sales amount for that pump price.

This calculation must be done for each pump price, in each jurisdiction, for both qualified motor fuel and diesel motor fuel.

To compute your **taxable self-use**, subtract the New York State motor fuel or diesel motor fuel excise tax from your purchase price and multiply the result by the number of gallons you removed from inventory for your use.

5. for **B20 biodiesel only:** The local sales tax on the sales of qualified B20 in jurisdictions that impose their local sales tax on qualified fuel using the percentage rate method is determined by multiplying 80% of the taxable receipt by the percentage rate for the jurisdiction. Therefore, you must multiply the result in Step 4 above by 80% to determine your taxable receipt for sales of B20 biodiesel.

Column F — Sales and use tax

The amount of tax to report for each jurisdiction is the **greater** of the following: The tax computed by multiplying the total of Column C and Column D by the tax rate entered in Column E; or the amount actually collected. Enter the greater amount in Column F.

Column totals for Step 5

Add the amounts reported in Step 5, Column F and enter the total in box 5. Enter the amount from Step 3, box 1 in box 6. Enter the amount from Step 3A, box 2 in box 7. Enter the amount from Step 4, box 3 in box 8. Enter the amount from Step 4A, box 4 in box 9. Add the amounts in boxes 5, 6, 7, 8 and 9; enter the total in box 10.

STEP 6 — Calculate tax adjustments

Credit for prepaid sales tax (Boxes 11 and 14) – Enter in the appropriate box the total amount of prepaid sales tax either paid directly to the Tax Department by you, or included in the price you paid to your supplier, for motor fuel and diesel motor fuel sold or used during the period. You may take the credit for prepaid tax paid on all motor fuel and diesel motor fuel sold by you whether or not subject to sales tax, and on all motor fuel and diesel motor fuel reported as used during the period.

Note: If you sold fuel that is not qualified fuel (as described on page 1 of these instructions) and reported the sales in Step 3 of Form ST-101, you may take a credit for the prepaid sales tax in Step 6 of Schedule FR. You must complete Step 7 certifying that the fuel sold was not qualified fuel and enter the number of gallons of motor fuel and diesel motor fuel for which you are claiming the credit. See Important Notice N-07-17, *Claiming Credit for Prepaid Sales Tax on Motor Fuel and Diesel Motor Fuel on Sales of Fuel That is Not Qualified Fuel,* for more information.

Do not include this credit amount in Step 5 of Form ST-101, even if the fuel sold was not qualified fuel and the sale is being reported on Form ST-101.

Registered motor fuel or diesel motor fuel distributors making sales in bulk should report the credit for prepaid sales tax on motor fuel or diesel motor fuel sold in bulk to exempt purchasers or delivered out of state to their customers on Form FT-945/1045, *Report of Sales Tax Prepayment On Motor Fuel/Diesel Motor Fuel*, lines 10a and 17a.

You must keep records to substantiate the payment of prepaid sales tax to your suppliers for at least three years after filing this return and make these records available upon request by the Commissioner of Taxation and Finance.

Refunds received or requested (Boxes 12 and 15) — Enter in the appropriate box the total amount of any refunds you have requested for the prepaid sales tax reported in boxes 11 and 14. You must include in these boxes all refunds you have requested, whether or not you have received these amounts.

Net credit (Boxes 13, 16, and 17) — For each column, subtract the requested refund amount from the prepaid sales tax amount and enter the difference. Add the net credit for motor fuel from box 13 to the net credit for diesel motor fuel from box 16 and enter the total in box 17. Enter the box 17 amount on Form ST-101, page 4, Step 7A on the Schedule FR line. Be sure to enter this amount as a positive number.

Adjusted tax (Box 18) — Subtract the amount in box 17 from the amount in box 10, and enter the result in box 18. Also enter this adjusted tax amount on Form ST-101, page 2, Step 3, in box 2.

If the amount of credit in box 17 is greater than the amount of tax in box 10, the adjusted tax amount in box 18 will be negative. You should identify this as a negative amount by preceding it with a minus sign (-).

STEP 7 — Sales of non-qualified fuel

If you sold or used fuel that is not qualified fuel and reported the sales in Step 3 of Form ST-101, and are claiming a credit for the prepaid sales tax in Step 6 of this schedule, you **must** complete this step. Mark an ***X*** in the box and enter the number of gallons of motor fuel and diesel motor fuel sold or used as non-qualified fuel.

Filing this schedule

File a completed Form ST-101.10 and any other attachments with Form ST-101 by the due date. Please be sure to keep a copy of your completed return for your records.

Need help? and Privacy notification

See Form ST-101-I, *Instructions for Form ST-101*.