ST-809 Part-Quarterly Instructions

Instructions for Form ST-809

New York State and Local Sales and Use Tax Return for Part-Quarterly Filers

For tax period:

October 1, 2008, through October 31, 2008

- **Important reminder to file all pages of your sales tax return:** Please include all pages of all the forms you completed when you file with the Tax Department, even if you did not make entries on some of the pages.

The New York State Tax Department is dedicated to answering your questions. Please call our Sales Tax Information Center for assistance. You may also visit our Web site for updated tax news, downloadable forms, links to related sites, and other information (see *Need help?* on page 4).

STOP

Please read this section before completing your return.

Filing requirements

Importers and others registered under Article 12-A as distributors of motor fuel or diesel motor fuel must also file Form FT-945/1045, *Report of Sales Tax Prepayment on Motor Fuel/Diesel Motor Fuel*, to report the sales tax prepayments due on motor fuel or diesel motor fuel. These prepayments must not be included in the taxable receipts reported on Form ST-809 or Form ST-810, *New York State and Local Quarterly Sales and Use Tax Return for Part-Quarterly Filers,* but distributors who have used these fuels or sold them at retail may take credits on Form ST-809 (or Form ST-810) for the prepaid tax already paid on the fuel used or sold (on Form ST-809, see box 5 of Step 1 or box 3 of Step 2 — *Credit for prepaid sales tax*).

Do not report on Form ST-809 the New York City hotel unit fee. The hotel unit fee is reported quarterly in Part 4 of Form ST-810.5, *Quarterly Schedule N for Part-Quarterly Filers - Taxes on Selected Sales and Services in New York City Only.*

Filing methods

Two methods are available for monthly filing: **long** and **short**. If you have filed returns for each of the four quarters immediately preceding the month to be covered, you may use either method. Otherwise, you must use the long method.

Long method — You must report and pay actual state and local sales and use taxes due for the month.

Short method — You must report and pay an amount equal to one-third of the total state and local sales and use taxes that were due for the comparable quarter of the previous year, adjusted to reflect any new, increased, or decreased local sales and use tax. Report local taxes as part of the total rather than separately.

Preaddressed labels

Place the enclosed peel-and-stick preaddressed label in the appropriate section on page 1 of the return. If you are filing single pages (e.g., printed from Web site), please **also** enter your sales tax identification number at the top of page 2 where space is provided. Be sure your identification number and name are on the front of any schedules you may be required to file.

If you did not receive a return with a preaddressed label, complete the identification number, name, and address boxes on page 1 of the return. If filing single pages, please also enter your sales tax identification number at the top of page 2 where space is provided.

Making numerical entries

Write your numbers like this: 1 2 3 4 5 6 7 8 9 0

1 No tax due?

You must file a return even if you had no taxable sales and made no purchases subject to tax. Mark an ***X*** in the box, enter your gross sales and services in box 1 of Step 1, and write ***none*** in boxes 2 and 3. Then go to Step 3.

There is a $50 penalty for late filing of a no-tax-due return.

2 Has your address or business information changed?

If you need to update your **sales tax mailing address**, call the Sales Tax Information Center (see *Need help?* on page 4) or enter your correct address on the label we provided. You may also use Form DTF-96, *Report of Address Change for Business Tax Accounts,* to update your mailing address, physical address, or designated preparer or filing service address. If you need to change additional information such as the name, ID number, physical address, owner/officer information, business activity, or paid preparer address (as well as your address), complete and send in Form DTF-95, *Business Tax Account Update*. You can obtain forms through Internet access, fax-on-demand, or by calling one of the telephone assistance numbers listed in the *Need help?* section on page 4.

3 Filing methods

Two methods are available for monthly filing: **long** and **short** (see page 1).

Regardless of the method used, you must maintain complete records to be able to complete quarterly Form ST-810, where you must report sales by each locality. You may also be required to file schedules A, B, B-ATT, CT, FR, H, N, N-ATT, NJ, P, Q, T, and T-ATT with the quarterly return, if any apply to you.

STEP 1 — Long method

4 Enter gross sales and services

Enter the total taxable, nontaxable, and exempt sales and services from your New York State business locations and from locations outside New York State delivered into the state in box 1 of Step 1. **Exclude sales tax from this amount.** Also, do not include sales of motor fuel or diesel motor fuel.

5 Taxable sales and services

Enter in box 2 of Step 1 the total amount of the sales and services reported in box 1 that are subject to New York State and local sales taxes.

Do not include sales tax in this amount.

6 Purchases subject to tax

- Purchases outside New York State: Report in box 3 of Step 1 the full amount of purchases made outside New York State of tangible personal property and services used in your business in New York State on which no New York State tax was paid.
- Purchases in New York State in one jurisdiction/use in another jurisdiction: Report in box 3 of Step 1 the full amount of any tangible personal property or services purchased for use in your business if the tax rate is higher in the jurisdiction where the property or services are used than the tax rate in the jurisdiction where you purchased the property or services.

In either of the cases above, you may be able to claim a credit for tax paid on such purchases (see 9).

Do not include in box 3 of Step 1 purchases of property or services purchased for resale or which are exempt.

Contractors: Also report materials purchased in one jurisdiction that are incorporated into realty in another.

7 Sales and use tax

Enter in box 4 of Step 1 the total state and local sales and use taxes due on taxable sales and services, including sales of motor fuel and diesel motor fuel, and purchases of items and services subject to use tax **minus** credits that can be identified with a specific locality (such as credits for taxes paid to another jurisdiction in New York State or to another state, or credit for tax paid by a contractor on purchases of materials used to perform repairs subject to tax). Do not include empire zone (EZ) credits in box 4 (see 9).

Substantiate credits that can be identified with a specific locality by a statement explaining the basis for the credit. Also attach any other supporting documents. Your substantiation must include the taxing jurisdiction, rate of tax paid, and calculations used to determine the amount of credit.

Do not include in box 4 of Step 1 any amounts reported on Form FT-945/1045.

Do not take any credit in box 4 of Step 1 for prepaid sales tax on motor fuel or diesel motor fuel that was sold or used during the month (see 8).

8 Credit for prepaid sales tax

Enter in box 5 of Step 1 the amount of sales tax prepaid to your suppliers on motor fuel or diesel motor fuel sold at retail or used during the month covered by this return.

Registered distributors of motor fuel or diesel motor fuel should also include in box 5 of Step 1 amounts prepaid with Form FT-945/1045 on motor fuel or diesel motor fuel sold at retail (whether taxable or nontaxable), or used during the month covered by this return.

Credit for prepaid sales tax on motor fuel or diesel motor fuel that you sold in bulk (that is, through a marketing location other than a retail service station) to an exempt purchaser or delivered out of state to your customer should be reported on Form FT-945/1045.

Include in box 5 of Step 1 the prepaid sales tax credit on cigarettes you claimed for the month.

9 Credits not identified

Enter in box 7 of Step 1 the credits claimed against the tax **other than** credits taken in boxes 4 and 5 of Step 1. **Do not** claim any vendor collection credit in this box.

Report EZ credits in this box and file Form AU-11, *Application for Credit or Refund of Sales or Use Tax*, separately from your return. Mail Form AU-11 and all substantiation to the address shown on the form. Indicate on Form AU-11 the period of the return on which you are taking the credits.

Enter the total EZ credits and any other credits you can substantiate but cannot identify with a specific locality. You **must substantiate** all credits in this box.

10 Advance payments

Enter in box 8 of Step 1 any tax you paid in advance.

Do not include sales tax prepayments due on motor fuel or diesel motor fuel as advance payments. Report these prepayments on Form FT-945/1045.

11 Determine penalty and interest

If you are filing your return late or not paying the full amount due, or both, you owe penalty and interest. Penalty and interest are calculated on the amount in box 10 of Step 1, *Sales and use tax due*. **The minimum penalty for late filing is $50**. For penalty information, see *Penalty computation* on page 3. Interest is due on any late payment or underpayment and accrues from the due date of the return to the date the tax is paid. Interest rates are compounded daily and adjusted quarterly.

You can estimate your penalty and interest by visiting our Web site and clicking on *Online Tax Center*, or you may call the Sales Tax Information Center to have a Tax Department representative estimate your penalty and interest for you (see *Need help?* on page 4). Enter this amount in box 11 of Step 1.

12 Amount due

Enter in box 12 the total of box 10 and box 11 of Step 1. This is the amount to pay with this return.

STEP 2 — Short method

13 Comparable quarter of previous year

Enter in box 1 of Step 2 total taxes that were due (before deducting credits or advance payments) for the comparable quarter of the previous year. Make adjustments to reflect any new, increased, or decreased taxes. (See *Short method adjustment* below.)

Form ST-810.10, *Quarterly Schedule FR for Part-Quarterly Filers*: When entering the total taxes that were due for the comparable quarter in the previous year, include the amount reported on page 4, Column F, box 10, of the Form ST-810.10 filed for the comparable quarter. The amount in box 10 is the total taxes reported on motor fuel and diesel motor fuel before deducting the credit for prepaid sales tax on either of these fuels.

14 Credit for prepaid sales tax

Enter in box 3 of Step 2 the amount of sales tax prepaid to your suppliers on motor fuel or diesel motor fuel sold at retail or used during the month covered by this return.

Registered distributors of motor fuel or diesel motor fuel should also include in box 3 of Step 2 amounts prepaid with Form FT-945/1045 on motor fuel or diesel motor fuel sold at retail (whether taxable or nontaxable), or used during the month covered by this return.

Credit for prepaid sales tax on motor fuel or diesel motor fuel that you sold in bulk to an exempt purchaser or delivered out of state to your customer should be reported on Form FT-945/1045.

Include in box 3 of Step 2 the prepaid sales tax credit on cigarettes you claimed for the month.

15 Credits not identified

Enter in box 5 of Step 2 the credits claimed against the tax **other than** credits taken in box 3 of Step 2. **Do not** claim any vendor collection credit in this box.

Report EZ credits in this box and file Form AU-11, *Application for Credit or Refund of Sales or Use Tax*, separately from your return. Mail Form AU-11 and all substantiation to the address shown on the form. Indicate on Form AU-11 the period of the return on which you are taking the credits.

Enter the total EZ credits and other credits you can substantiate but cannot identify with a specific locality. You **must substantiate** all credits in this box.

Substantiate other credits reported in box 5 of Step 2 by attaching a statement explaining the basis for the credit and any other supporting documents (for example, credit for tax a contractor paid on purchases of materials that were then used to perform repairs that are subject to the tax). Your substantiation must include the taxing jurisdiction, rate of tax paid, and calculations used to determine the amount of credit.

16 Advance payments

Enter in box 6 of Step 2 any tax you paid in advance.

Do not include sales tax prepayments due on motor fuel or diesel motor fuel as advance payments. Report these prepayments on Form FT-945/1045.

17 Determine penalty and interest

If you are filing your return late or not paying the full amount due, or both, you owe penalty and interest. Penalty and interest are calculated on the amount in box 8 of Step 2, *Sales and use tax due*. **The minimum penalty for late filing is $50.** For penalty information, see *Penalty computation* below. Interest is due on any late payment or underpayment and accrues from the due date of the return to the date the tax is paid. Interest rates are compounded daily and adjusted quarterly.

You can estimate your penalty and interest by visiting our Web site and clicking on *Online Tax Center*, or you may call the Sales Tax Information Center to have a Tax Department representative estimate your penalty and interest for you (see *Need help?* on page 4). Enter this amount in box 9 of Step 2.

Penalty computation

- For failure to file a return on time with **no tax due**, the penalty is $50.
- For failure to file a return on time **with tax due**, the penalty is:
  For 1-60 days late, 10% (.10) of the tax due for the first month plus 1% (.01) of the tax due for each month thereafter, but in no instance less than $50.
  For 61 or more days late, the greater of:
  – 10% (.10) of the tax due for the first month plus 1% (.01) of the tax due for each month thereafter, not to exceed 30% (.30); or
  – the lesser of $100 or 100% (1.00) of the tax due, but not less than $50.
- For failure to pay tax, even though the return is filed on time, the penalty is 10% (.10) of the tax due for the first month, plus 1% (.01) of the tax due for each additional month, up to a maximum of 30% (.30).

18 Amount due

Enter in box 10 of Step 2 the total of box 8 and box 9 of Step 2. This is the amount to pay with this return.

Short method adjustment

When the combined rate has been increased or decreased, multiply the total taxable sales and purchases subject to tax reported for that locality in the comparable previous quarter by the difference between the new and old rates. If a new local tax was enacted since the end of the comparable previous quarter, use current records to estimate taxable sales and purchases subject to tax in that locality for three months and multiply this amount by the new local tax rate.

Total the adjustments for all such localities and add this amount to, or subtract it from, the taxes due for the comparable quarter last year. Enter this adjusted total in box 1 of Step 2. **List the names of the localities and the amount of the adjustment (show negative balances by preceding the amount with a minus sign (-)) for each in the dedicated space below the Step 2 box.**

Example:

The entries in this example are fictional. Do not use these figures when completing your return.

City "Y" increased its local tax and County "D" decreased its local tax. If a vendor reported taxable sales for City "Y" in the previous year's comparable quarter and sales were also made in County "D" during that quarter, the adjustments would be computed as follows:

Locality*	Combined Rate Current	Combined Rate Comparable Quarter	Increase or Decrease	x	Taxable Sales **	=	Adjustment*
City "Y"	7%	6%	1%		$250,000		$2,500
County "D"	5%	7%	– 2%		3,000		-60
Total adjustments to be added to comparable previous year's quarter							$2,440

* Enter locality and adjustment information in the dedicated space below the Step 2 box.
** Includes purchases subject to tax.

STEP 3

19 Third-party designee — If you want to authorize a friend, family member, or any other person (third-party designee) you choose to discuss this sales 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, enter the designee's name, phone number, 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, enter ***Preparer*** in the space for the designee's name. You do not have to provide the other information requested. If you mark the *Yes* box, you are authorizing the Tax Department to discuss with the designee any questions that may arise during the processing of your return. You are also authorizing the designee to:

- give the Tax Department any information that is missing from your return;
- call the Tax Department for information about the processing of your return or the status of your payment(s); and
- respond to certain Tax Department notices that you shared with the designee about math errors and return preparation. The notices will not be sent to the designee.

You are not authorizing the designee to bind you to anything (including any additional tax liability), or otherwise represent you before the Tax Department. If you want the designee to perform those services for you, you must file Form POA-1, *Power of Attorney,* making that designation with the Tax Department. Copies of statutory tax notices or documents (such as a *Notice of Deficiency*) will only be sent to your designee if you file Form POA-1.

The third-party designee authorization cannot be revoked. However, the authorization only includes the tax period covered on this return. You may designate the same representative, or another representative, on future returns.

20 Sign and mail this return

Signatures required

If you are a sole proprietor, you must sign the return and print your name, title, date, and telephone number.

If you are filing this return for a corporation, partnership, or other type of entity, an officer, employee, or partner must sign the return on behalf of the business, and print his or her name, title, date, and telephone number.

If you do not prepare the return yourself, sign, date, and provide the requested taxpayer information. The preparer must also sign the return and print his or her name, preparer identification number, address, and telephone number.

Please be sure to keep a copy of your completed return for your records.

Where to mail your return and attachments

See page 2 of Form ST-809 to determine where to send your completed return, attachments, and payment. If you are not using the U.S. Postal Service, see *Private delivery services* address below.

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to file your return and pay tax. 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 ordering 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, address your return to:

BANK OF AMERICA
431C BROADWAY
MENANDS NY 12204

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.

To order forms and publications: 1 800 462-8100

Sales Tax Information Center: 1 800 698-2909

From areas outside the U.S. and outside Canada: (518) 485-6800

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, please call 1 800 972-1233.

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.