New York State Department of Taxation and Finance

Instructions for Form PT-106

Retailers of Non-Highway Diesel Motor Fuel Only

PT-106-I
(11/11)

General information

Persons registered under Tax Law Article 12-A as **retailers of non-highway diesel motor fuel only** who are otherwise required to file monthly tax returns must file this return. Those allowed to file quarterly returns must file Form PT-201, *Retailers of Non-Highway Diesel Motor Fuel Only (Quarterly Filer)*.

A retailer of non-highway diesel motor fuel only may only sell non-highway diesel motor fuel for use other than on the public highways of New York State (NYS) (except for the use of the public highway by farmers to reach adjacent farmlands). Additionally, a retailer of non-highway diesel motor fuel only may not make a sale into a bulk storage tank equipped with a nozzle capable of fueling motor vehicles (for example, a service station, truck stop, construction site, etc.), except for delivery at a farm site for use directly and exclusively in the production for sale of tangible personal property by farming.

If you are an exempt organization that has established its status as an exempt organization under Tax Law section 1116(a), and any motor fuel, diesel motor fuel, or residual petroleum product that you import into New York State (NYS) or that you produce, refine, manufacture, or compound in NYS is consumed exclusively by you, then you are not subject to the petroleum business tax on petroleum businesses. Mark an ***X*** in the appropriate box on the front of Form PT-100, *Petroleum Business Tax Return,* and do not include any petroleum business tax (Article 13-A) in the amounts on Form PT-106 (see Form PT-100-I, *Instructions for Form PT-100*).

Diesel motor fuel is No. 1 diesel fuel, No. 2 diesel fuel, biodiesel, kerosene, crude oil, fuel oil or other middle distillate and also motor fuel suitable for use in the operation of an engine of the diesel type. Diesel motor fuel does not include any product specifically designated No. 4 diesel fuel.

Non-highway diesel motor fuel is any diesel motor fuel that is designated for use other than on a public highway (except for the use of the public highway by farmers to reach adjacent lands), and is dyed diesel motor fuel.

Highway diesel motor fuel is any diesel motor fuel which is not non-highway diesel motor fuel.

Dyed diesel motor fuel is diesel motor fuel which has been dyed in accordance with and for the purpose of complying with 26 USC 4082(a).

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

Biodiesel is either qualified biodiesel or unqualified biodiesel.

Qualified biodiesel is 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 USC 7545) and that meets the ASTM International active standard D6751 for biodiesel fuel.

Unqualified biodiesel is a diesel motor fuel substitute produced from nonpetroleum renewable resources that does not meet the ASTM International active standard D6751 for biodiesel fuel.

Commercial gallonage is gallonage that:

- is non-highway diesel motor fuel or residual petroleum product;
- is included in the full measure of the non-highway diesel motor fuel component or the residual petroleum product component of the petroleum business tax;
- does not and will not qualify:
  - — for the utility credit or reimbursement,
  - — as manufacturing gallonage,
  - — for the not-for-profit organization exemption, or
  - — as fuel used for heating/cooling; and
- will not be used and has not been used in the fuel tank connecting with the engine of a vessel.

Railroad diesel is non-highway diesel motor fuel for use and consumption directly and exclusively in the operation of a locomotive or a self-propelled vehicle run only on rails or tracks, but only if either:

- all the fuel is delivered into a storage facility which is not equipped with a hose or other apparatus by which the fuel can be dispensed into the fuel tank of a motor vehicle and the facility is used only to fuel locomotives or self-propelled vehicles, or
- in accordance with the terms of sale, all the fuel is delivered directly into the tank of a locomotive or self-propelled vehicle.

You may reproduce (for example, computer generate) Form PT-106.1/201.1, *Retailers of Non-Highway Diesel Motor Fuel Only-Receipts and Sales*, if the form is clearly identified and contains all of the information (including form number, distributor's name, identification number, etc.) requested on the original form, and the information is in the same format.

Line instructions

Lines 1 through 8 — Inventory (Must be completed by all registrants.)

Line 1 — Enter the total number of gallons of your non-highway diesel motor fuel on hand at all storage facilities in NYS at the beginning of the month. This figure should be the same as that reported on line 7 of Form PT-106 filed for the previous month. This figure cannot be a negative amount.

Line 4 — Enter the total number of gallons of nondiesel motor fuel substances that were added to and increased your overall inventory.

Line 5 — Enter the total number of gallons of non-highway diesel motor fuel gained or lost due to evaporation, shrinkage, and handling at bulk storage facilities. You must maintain records to substantiate such gains or losses. In addition, you may include on this line the total gallons of diesel motor fuel lost due to a casualty if the loss has been approved by the Tax Department. You must submit a report of casualty loss within 24 hours to the NYS Tax Department, TDAB-FACCTS, Fuels Audit Unit, W A Harriman Campus, Albany NY 12227, requesting to include the loss on your tax return.

Line 7 — Enter the total number of gallons of your non-highway diesel motor fuel on hand at all storage facilities in NYS at the end of the month. This figure cannot be a negative amount. Retailers of non-highway diesel motor fuel only may not participate in accommodation sales.

Lines 9 through 16 — Exempt sales and uses

Line 9 — Enter the total number of gallons of non-highway diesel motor fuel sold in NYS to farmers upon which you did not pass

through the taxes from Form PT-106.1/201.1 Part 7, line 1, *Sales or use of non-highway diesel motor fuel for farming.* You must have Form FT-1004, *Certificate for Purchases of Non-Highway Diesel Motor Fuel or Residual Petroleum Product for Farmers and Commercial Horse Boarding Operations*, on file to cover these sales. If you are a farmer, also include gallons you used directly and exclusively in the production phase of farming.

Line 10 — Enter the total number of gallons from Form PT-106.1/201.1, Part 3, *Sales of non-highway diesel motor fuel to exempt organizations*. Do not include any gallons that were sold for residential heating/cooling. Report those gallons on line 13. Only exempt organizations granted exemption from sales tax under Tax Law section 1116(a)(4) or 1116(a)(5) may purchase non-highway diesel motor fuel without the petroleum business tax included. This fuel must be used by the organization for business-related activities. The exempt organizations must give properly completed copies of Form FT-1021-A, *Certification for Purchases of Non-Highway Diesel Motor Fuel or Residual Petroleum Product by Certain Exempt Organizations*, to the suppliers.

Line 11 — Enter the total number of gallons from Form PT-106.1/201.1, Part 4, *Sales of non-highway diesel motor fuel to manufacturers for use in manufacturing*. The manufacturer must give a properly completed Form FT-1012, *Manufacturing Certification for Non-Highway Diesel Motor Fuel and Residual Petroleum Product,* to its suppliers for these purchases.

Line 12 — Enter the total number of gallons from Form PT-106.1/201.1, Part 5, *Sales of non-highway diesel motor fuel to New York State, its municipalities or to the U.S. government*.

Line 13 — Enter the total number of gallons of non-highway diesel motor fuel sold to consumers for residential heating/cooling. See TSB-M-95(4)M for the definition of residential heating/cooling.

Line 14 — Enter the total number of gallons of non-highway diesel motor fuel transferred out of NYS or sold to customers located outside NYS. Any gallons sold in NYS to out-of-state customers must be for immediate export. You must be registered or licensed in the other state or province to import and/or sell in that state or province.

Line 15 — Enter the total number of gallons of non-highway diesel motor fuel sold to a rate-regulated electric corporation (**with** a direct pay permit) for use in manufacturing or producing electricity for sale. If you are an electric corporation, you must include non-highway diesel motor fuel that you imported and used in fueling generators for the purpose of manufacturing or producing electricity.

Lines 17 through 26 — Taxable sales and uses

Line 19 — Enter the total number of gallons of non-highway diesel motor fuel sold to a rate-regulated electric corporation (**without** a direct pay permit) for use in manufacturing or producing electricity for sale, and fuel sold to an electric corporation by use of a direct pay permit, excluding any kerosene that has not been blended or mixed with any other product. If you are an electric corporation, you must include non-highway diesel motor fuel that you imported and used in fueling generators for the purpose of manufacturing or producing electricity.

Lines 20 and 21 — Enter the total number of gallons of non-highway B20 on line 20 and the total number of gallons of other non-highway diesel motor fuel on line 21 sold to consumers to be used as commercial gallonage. Include the total gallons **you** used as commercial gallonage. You must have the indicated exemption certificate on file to cover such sales.

Examples of commercial gallonage include, but are not limited to, non-highway B20 or other non-highway diesel motor fuel:

- used directly and exclusively in the production of tangible personal property for sale by refining, extracting, and mining (Form FT-1020, *Exemption Certificate for Certain Taxes Imposed on Diesel Motor Fuel and Propane);*
- used directly and exclusively in the production of gas, electricity (except sales to rate-regulated electric corporations), refrigeration, or steam, for sale, excluding kerosene (Form FT-1020);
- used in the production of tangible personal property for sale by farming, but not directly and exclusively in the production phase (for example, uses in administration, storage, and marketing) (Form FT-1004);
- delivered directly into the fuel tank of a generator (Form FT-1014, *Certification for Non-Highway Diesel Motor Fuel and Residual Petroleum Product Used for Commercial Purposes (Other Than Manufacturing or Farming));*
- delivered directly into the fuel tank of off-road construction equipment (for example, backhoes, cranes, etc.) (Form FT-1014); or
- delivered directly into the fuel tank of a refrigeration unit used for refrigerated storage (Form FT-1014).

Line 22 and 23 — Enter the total number of gallons of non-highway B20 on line 22 and the total number of other railroad diesel gallons on line 23 from Form PT-106.1/201.1, Part 6, *Sales of railroad diesel*. You must have form PT-303, *Railroad Exemption Certificate for Diesel Motor Fuel*, on file to cover these sales.

Line 27 — Adjustments — Enter the net number of gallons of non-highway diesel motor fuel in column A and the net tax adjustment in column B. Include the total number of gallons of non-highway diesel motor fuel that you purchased with diesel motor fuel tax passed through to you and that you sold or used during the reporting period. Subtract a credit or add a debit to line 26 when computing line 28. Enter any net deductions in brackets. Explain in the space provided and attach additional sheet(s) if necessary.

Line 28 — Balance due/credit — Transfer the amount on line 28 to Form PT-100, *Petroleum Business Tax Return*, line 6.

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To order forms and publications:	(518) 457-5431
Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY):	(518) 485-5082

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.