



# Quarterly Schedule FR for Part-Quarterly (Monthly) Filers Instructions Sales and Use Tax on Qualified Motor Fuel and Highway Diesel Motor Fuel

For 2<sup>nd</sup> quarter tax period: June 1, 2023, through August 31, 2023

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## General information

### Who must file

If your business qualifies as a *retail gas station*, any motor fuel or highway 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 you must report the sales on this schedule.

If you sell fuel, but your business is **not** a retail gas station, you must calculate any sales tax due using the combined state and local rates in Publication 718, *New York State Sales and Use Tax Rates by Jurisdiction*, and report the sale on the appropriate jurisdiction line in Step 3 of Form ST-810 **unless** your purchaser gives you 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*. For more information, visit [www.tax.ny.gov](http://www.tax.ny.gov) (search: *st121*). If you accept the properly completed Form ST-121, the fuel is considered qualified fuel and you must report the sale on this schedule.

You must complete and file Form ST-810.10, *Quarterly Schedule FR for Part-Quarterly (Monthly) Filers*, with Form ST-810, *New York State and Local Quarterly Sales and Use Tax Return*, for the period covered by the return to:

- report your retail sales of qualified fuel or self-use of qualified fuel, or
- claim credit for prepaid sales tax you paid (either to your supplier or directly to the Tax Department) if you later sold the qualified fuel as either nonqualified fuel or nonhighway fuel.

### Definitions

*Qualified fuel* means motor fuel or highway 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).

Qualified fuel includes motor fuel and highway 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 (for example, qualified fuel would include motor fuel or highway diesel motor fuel sold by a distributor to a bulk purchaser who will use the fuel exclusively in its fleet of rental cars).

*Retail gas station* means a filling station where motor fuel or highway 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 highway 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 (for example, a marina gas station).

## Filing requirements

### Reporting requirements for sales and uses of nonqualified fuel

You must report sales and uses of nonqualified motor fuel and diesel motor fuel on:

- the appropriate jurisdiction line on Form ST-810, or
- Form ST-810.3, *Quarterly Schedule B for Part-Quarterly (Monthly) Filers*.

This includes:

- sales of fuel sold for heating purposes,
- sales of fuel sold for use in manufacturing, and
- sales by fixed base operators of aviation gasoline or kero-jet fuel for use in an aircraft.

### Partial exemption: B20 biodiesel

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 rate method, the cents-per-gallon rate on the sale or use of qualified B20 is 80% of the regular rate that applies to qualified fuel; or
- the percentage rate method, the local sales tax on sales of qualified B20 is 80% of the taxable receipt multiplied by the percentage rate for the jurisdiction.

Report sales and uses of qualified B20 in Steps 3A, 4A, and 5 of this schedule. For more information, see the instructions for *Steps 3A, 4A, and 5*. Also see TSB-M-06(10)S, *Sales Tax Exemptions and Reductions for Certain Alternative Fuels Beginning September 1, 2006*, or visit [www.tax.ny.gov](http://www.tax.ny.gov) (search: *memos*).

### Full exemption: Hydrogen, E85, and compressed natural gas (CNG)

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

Report sales and uses of these qualified fuels **only** in:

- Step 1, in the boxes under *Nontaxable gallons sold or used*; and
- Step 2, as part of your gross sales.

## Specific instructions

### Identification number and name

Print the sales tax identification number and legal name of your business, as shown on Form ST-810 or on your business's Certificate of Authority for sales and use tax.

Also enter your sales tax identification number where space is provided at the top of each page of this schedule.

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

For Steps 3 through 5, enter on each jurisdiction line the amount of taxable gallons sold or used in the jurisdiction **minus** the amount of any credits for that jurisdiction. If the result is a negative number, show the negative using a minus sign (-).

Your 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 highway diesel motor fuel.

Report your taxable sales (or gallons) and self-use on the line for the jurisdiction where the fuel is delivered to the customer or where you use it.

### Step 1: Summary of gallons sold or used

#### Taxable gallons sold or used: Motor fuel

Enter the number of taxable gallons of qualified motor fuel you sold or used in New York State during the quarterly period you are filing this schedule for.

Separate your gallons sold or used 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 or used: Highway diesel motor fuel

Enter the total number of taxable gallons of qualified highway diesel motor fuel you sold or used during the quarterly reporting period.

## Nontaxable gallons sold or used

Enter the combined total of nontaxable gallons of qualified motor fuel (combining regular, mid-grade, and premium) and qualified highway diesel motor fuel you sold or used during the quarterly reporting period. Include sales of E85, hydrogen, and CNG.

For more information on the exemption from sales tax on these alternative fuels, see TSB-M-06(10)S, *Sales Tax Exemptions and Reductions for Certain Alternative Fuels Beginning September 1, 2006*.

## Step 2: Summary of gross sales and total credits

### Gross sales of motor fuel and highway diesel motor fuel

Enter the total taxable, nontaxable, and exempt sales for all types of qualified motor fuel and highway diesel motor fuel. Include exempt sales. Include sales of E85, hydrogen, and CNG. See TSB-M-06(10)S for more information on the exemption from sales tax on these alternative fuels.

Do **not** include:

- sales tax collected, or
- sales made at business locations outside New York State for delivery outside New York State.

To calculate 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)  $\frac{3}{4}$  cents-per-gallon sales tax (if applicable) from the pump price.
2. Subtract the local sales tax per gallon amount from the pump price.
3. Multiply the result by the number of gallons sold at that pump price.
4. Add the amounts determined in the preceding steps 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.

### Total credits against tax on motor fuel and highway diesel motor fuel

Enter the total amount of the credits you can identify by jurisdiction and are claiming in Steps 3 through 5 as a subtraction from sales.

You **must** attach substantiation for the credits you report in this box.

Do **not** include the credit for prepaid sales tax on motor fuel and diesel motor fuel. Claim that credit in Step 6.

## Step 3: Calculate New York State/MCTD tax (cents-per-gallon rate)

1. For each jurisdiction:
  - a. In Column C, enter the total number of gallons of qualified motor fuel that you sold or removed from inventory for self-use.
  - b. In Column D, enter the total number of gallons of qualified highway diesel motor fuel that you sold or removed from inventory for self-use.
  - c. Add the amounts in Columns C and D.
  - d. Multiply the result by the cents-per-gallon rate in Column E.
  - e. Enter the result in Column F.
2. Add the amounts in Column F.
3. Enter the result in box 1.

### Step 3A: Calculate New York State/MCTD tax (cents-per-gallon rate) on B20 biodiesel only

1. For each jurisdiction:
  - a. In Column C, enter the total number of gallons of qualified B20 biodiesel that you sold or removed from inventory for self-use.
  - b. Multiply this amount by the cents-per-gallon rate in Column D.
  - c. Enter the result in Column E.
2. Add the amounts in Column E.
3. Enter the result in box 2.

### Step 4: Calculate local sales tax by jurisdiction (cents-per-gallon rate)

The jurisdictions listed in Step 4 have elected to use the cents-per-gallon rate method for calculating local sales tax on qualified fuel.

1. For each jurisdiction:
  - a. In Column C, enter the total number of gallons of qualified motor fuel that you sold or removed from inventory for self-use.
  - b. In Column D, enter the total number of gallons of qualified highway diesel motor fuel that you sold or removed from inventory for self-use.
  - c. Add the amounts in Columns C and D.
  - d. Multiply the result by the cents-per-gallon rate in Column E.
  - e. Enter the result in Column F.
2. Add the amounts in Column F.
3. Enter the result in box 3.

Jurisdictions **not** listed in Step 4 use the percentage rate method. You must report sales and self-use of qualified fuel in those localities in Step 5.

### Step 4A: Calculate local sales tax by jurisdiction (cents-per-gallon rate) on B20 biodiesel only

1. For each jurisdiction:
  - a. In Column C, enter the total number of gallons of qualified B20 biodiesel that you sold or removed from inventory for self-use.
  - b. Multiply this amount by the cents-per-gallon rate in Column D.
  - c. Enter the result in Column E.
2. Add the amounts in Column E.
3. Enter the result in box 4.

### Step 5: Calculate local sales tax by jurisdiction (percentage rate)

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

The jurisdictions listed in Step 5 use the percentage rate method for calculating local sales tax on qualified fuel. Report your sales and self-use of qualified motor fuel and highway diesel motor fuel in any of these jurisdictions at the current local sales tax percentage rate.

#### To calculate your taxable sales of qualified fuel sold using a tax-included pump price

Complete the following steps for each pump price, in each jurisdiction, for both qualified motor fuel and highway diesel motor fuel:

1. Subtract the New York State 8 cents-per-gallon and MCTD  $\frac{3}{4}$  cents-per-gallon sales tax (if applicable) from the pump price.
2. Subtract the local sales tax per gallon amount from the pump price.
3. Subtract the New York State motor fuel or diesel motor fuel excise tax. See Article 12-A rates in Publication 908, *Fuel Tax Rates*, for the applicable cents-per-gallon rate, or visit [www.tax.ny.gov](http://www.tax.ny.gov) (search: 908).
4. Multiply the result by the number of taxable gallons sold at the pump price. This is the taxable sales amount for that pump price.

**B20 biodiesel:** To determine the **taxable sales** amount for qualified B20 biodiesel in jurisdictions that have elected to use the percentage rate method, multiply the result from number 4 above by 80% (0.8). Report this amount in Column D.

## To calculate your taxable self-use

1. Subtract the New York State motor fuel or diesel motor fuel excise tax from your purchase price.
2. Multiply the result by the number of gallons you removed from inventory for self-use. This is the **taxable self-use** amount.

**B20 biodiesel:** To determine the **taxable self-use** amount for qualified B20 biodiesel in jurisdictions that have elected to use the percentage rate method, multiply the result from number 2 above by 80% (0.8). Report this amount in Column D.

## Column F: Sales and use tax

For each jurisdiction, in column F report the greater of:

- the amount of tax you collected, or
- the total of Columns C and D multiplied by the tax rate in Column E.

## Column totals

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

## Step 6: Calculate tax adjustments

### Credit for prepaid sales tax (boxes 11 and 14)

In the appropriate box, enter the total amount of prepaid sales tax you paid directly to the Tax Department or included in the price you paid to your supplier for motor fuel and diesel motor fuel you sold or used during the period.

You may claim credit for prepaid tax you paid on:

- all motor fuel and diesel motor fuel you sold, regardless of whether the sales were subject to sales tax; and
- all motor fuel and diesel motor fuel you reported as used during the period.

### Sales and uses of nonqualified fuel or nonhighway fuel

If you sold nonqualified fuel or nonhighway fuel and reported the sales on Form ST-810 in Step 3 or on Schedule B, you may claim a credit for the prepaid sales tax in Step 6 of this schedule.

If you claim credit for sales and use of nonqualified fuel, you must complete Step 7 to:

- certify that the fuel sold or used was nonqualified fuel, and
- enter the number of gallons of motor fuel and diesel motor fuel you are claiming the credit for (do **not** include gallons sold as nonhighway fuel).

For more information, 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*.

**Note:** If you are a registered motor fuel distributor, registered diesel motor fuel distributor, or motor fuel wholesaler, report the credit for prepaid sales tax on motor fuel or diesel motor fuel you sold in bulk to exempt purchasers or delivered out of state to customers on Form FT-945/1045, *Prepaid Sales Tax on Motor Fuel/Diesel Motor Fuel Return*.

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

### Refunds received or requested (boxes 12 and 15)

In the appropriate box, enter the total amount of any refunds you previously received or requested for the prepaid sales tax you reported in boxes 11 and 14.

You **must** include all refunds you previously requested, even if you have not received these amounts.

### **Net credit (boxes 13, 16, and 17)**

1. For each column, subtract the requested refund amount from the prepaid sales tax amount, then enter the difference.
2. Add the net credit for motor fuel from box 13 to the net credit for diesel motor fuel from box 16.
3. Enter the total in box 17.

### **Adjusted tax (box 18)**

1. Subtract the amount in box 17 from the amount in box 10. If the result is a negative number, show the negative using a minus sign (-).
2. Enter the result in box 18 on this schedule, and on Form ST-810, Step 3, box 2.

### **Step 7: Sales and uses of nonqualified fuel**

You **must** complete this step if:

- you sold or used nonqualified fuel and reported the sales on Form ST-810 in Step 3; and
- you are claiming a credit for the prepaid sales tax on this schedule in Step 6.

Enter the number of gallons of motor fuel and diesel motor fuel that you sold or used as nonqualified fuel. Do **not** include gallons sold as nonhighway fuel.

### **Filing this schedule**

File a completed Form ST-810.10 and any other applicable schedules with Form ST-810 by the due date. Keep a copy of your completed return for your records.

### **Need help? and Privacy notification**

See Form ST-810-I, *Instructions for Form ST-810*.