



# Application for Refund of New York State Motor Fuel Tax by an Omnibus Carrier

Tax Law — Article 12-A, Section 289-c

This form is to be used by an omnibus carrier (definition on back).

**Do not write in this space**  
 Audited and approved for payment  
 Office of the State Comptroller  
 Audited by \_\_\_\_\_  
 Date approved \_\_\_\_\_  
 Check number \_\_\_\_\_

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Department of Taxation and Finance  
 Line 1 \_\_\_\_\_ gal. \$ \_\_\_\_\_  
 Line 2 \_\_\_\_\_ gal. \$ \_\_\_\_\_  
 Total refunds \$ \_\_\_\_\_  
 Audited by \_\_\_\_\_ Date \_\_\_\_\_  
 Approved by \_\_\_\_\_ Date \_\_\_\_\_  
 Approved by \_\_\_\_\_ Date \_\_\_\_\_

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Received  
 Department of Taxation and Finance

### Do not use this form for diesel tax refund.

Name of claimant		Business telephone number ( )	
Street address	City	State	ZIP code
Records are kept at		Filing period Beginning _____ Ending _____	
Federal employer identification number or social security number		Total number of buses operated: Gasoline _____ Diesel _____	

Mark an **X** in the appropriate box when answering *Yes* or *No* questions.

Do you have a Department of Transportation *Certificate of Convenience and Necessity*? ..... Yes  No

Do you have an Interstate Commerce Commission *Certificate of Convenience and Necessity*? ..... Yes  No

Do you operate pursuant to a contract, franchise, or consent with New York City or one of its agencies?..... Yes  No

If you answered *Yes* to any of the above, are you engaged in local transit service?..... Yes  No

State your average weekly mileage on local transit services routes in New York State ....	State your average weekly mileage under contract with school districts in New York State _____
State all other average weekly mileage in New York State .....	School district contract: Starts _____ Ends _____

### Reconciliation

	Gallons
A Beginning physical inventory, New York State locations only.....	A
B Bulk purchases in New York State (from Schedule 1 on back).....	B
C Over-the-road purchases in New York State (from Schedule 2 on back).....	C
D Total (add lines A, B, and C).....	D
E Closing physical inventory, New York State locations only.....	E
F Available for use .....	F

### Computation of refund

	Gallons
1 Used in your buses in New York State from New York State purchases for purposes other than local transit service	1
2 Used in your buses in New York State from New York State purchases for local transit service only.....	2
3 Taken out-of-state in fuel tanks of buses and consumed out-of-state .....	3
4 Used or sold in any manner other than lines 1, 2, and 3 .....	4
5 Loss or gain in bulk tank.....	5
6 Total accounted for (must agree with line F above) .....	6

**Caution:** Read this certificate before signing.  
 I hereby declare that this application has been made with the knowledge that a willfully false representation is a crime under Section 1812 of the New York State Tax Law and Sections 175.35 and 210.45 of the Penal Law punishable by fines and penalties stipulated therein and affirm that the statements contained herein are true.

County of	Date
Signature of claimant	Telephone number ( )
State whether owner or member of firm; or if officer, give title or office	

Refund claimed on gals. line 1 \_\_\_\_\_ x \$.03 per gal. \_\_\_\_\_  
 Refund claimed on gals. line 2 \_\_\_\_\_ x \$.08 per gal. \_\_\_\_\_  
 Total refund claimed \$ \_\_\_\_\_  
 How was line 3 above arrived at? \_\_\_\_\_

Did you complete summary on reverse side? Yes  No

Have you attached all invoices? Yes  No

Mail refund application to: **NYS Tax Department, Fuel Tax Refund Unit, P O Box 5501, Albany New York 12205-5501**

## Instructions

### General information

To qualify for a refund you must be one of the following:

- Interstate Commerce Commission Certificated Operator
- Department of Transportation Certificated Operator
- District School Contractor
- Carrier operating pursuant to a contract, franchise or consent with New York City or any agency thereof

*Omnibus carrier* shall mean every person engaged in operating an omnibus line subject to the supervision of the New York State Commissioner of Transportation including every person operating omnibuses used for the transportation of school children under a contract made pursuant to the provisions of the education law.

An omnibus carrier who operates in local transit service pursuant to a certificate of convenience and necessity issued by the Department of Transportation or the Interstate Commerce Commission or pursuant to a contract, franchise or consent of New York City or one of its agencies may claim a refund of New York State tax paid of \$.08 per gallon on the gasoline consumed in this state by an omnibus engaged in local transit service. No refund is allowable under this provision for charter or other contract operations, that is, operations under a contract with any party other than New York City.

*An omnibus in local transit service* is an omnibus carrying passengers from one point in this state to another point in this state and which either

- (i) regularly picks up or discharges such passengers at their convenience or at bus stops on the street or highway, as distinguished from building or facilities used for bus terminals or stations, or
- (ii) picks up and discharges passengers at bus terminals or stations, the distance between which is not more than seventy-five miles, measured along the route traveled by the bus.

Any omnibus carrier that qualifies as being engaged in local transit service as defined in paragraph (i) above must keep a daily record of

its operations in the form of a vehicular trip record for each bus, listing vehicular number, gallons of fuel consumed and the monthly total of gallons consumed. A carrier claiming a credit or refund under paragraph (ii) must keep a daily record of its operations in the form of a vehicular trip record for each bus, including the following information:

1. Vehicle number
2. Date of each trip
3. Origin and destination of each trip
4. Points between which credit or refund is claimed
5. Total miles traveled
6. Credit or refund miles claimed
7. Gallons of fuel consumed
8. Gallons credit or refund claimed

Items 5, 6, 7 and 8 must be totaled at the end of each month for each bus.

A tax may not be refunded until it has been collected. This is made clear by Tax Law subdivision 3 of section 289-c:

*no such claims shall be paid unless the Department of Taxation and Finance is satisfied that the amount of the tax for which the reimbursement is claimed has actually been collected by the state.*

The state does not collect until the month following that in which the tax was paid by the purchaser. It follows that refunds for the month of March cannot be made until the department has received the tax due the state from the distributor late in April, and similarly for the succeeding months.

The Tax Law was amended effective September 1, 2006, to exempt E85 delivered to a filling station, CNG, and hydrogen from excise tax and petroleum business tax. For more information, see TSB-M-06(2), *Excise Tax and Petroleum Business Tax Exemptions for Certain Alternative Fuels Beginning September 1, 2006*.

Claims for refund should include a complete calendar month. **In no case will a refund be made by the department in respect of purchases made more than three years prior to the date of filing the claim.**

**Sales invoices or monthly statements** showing the name and address of dealer, name and address of claimant, date of purchase (month, day and year), number of gallons purchased, and the fact that the tax was included in purchase price are required. After the claim has been paid, the evidence of purchase will be returned provided a stamped addressed envelope with sufficient postage attached is forwarded to the office.

List in Schedule 1 and 2 below all purchases - bulk and over-the-road. (Invoices or monthly statements must be submitted.) Attach additional sheets if necessary.

Schedule 1 - Bulk purchases					Schedule 2 - Over-the-road purchases				
Date of purchase			Purchased from	Total gallons purchased	Date of purchase			Purchased from	Total gallons purchased
Month	Day	Year			Month	Day	Year		
Total (enter here and on line B on the front page) .....					Total (enter here and on line C on the front page).....				

Claim for refund or reimbursement of tax paid on motor fuel should be based on the following records (including the original records) which must be preserved for three years and be produced at any time for audit by the department.

- (1) A record of all purchases of motor fuel by the claimant, and **a record of the manner in which all motor fuel was used.**
- (2) Where a storage tank, drum, or other container is used, the claimant shall in addition keep a record of the quantity of motor fuel put into such storage tank, drum or other container and also a record of all withdrawals therefrom for nontaxable or reimbursable uses.

**Note:** The disclosure of identifying number, including social security number, is required by section 287-c-3(c) of the tax law, such numbers are used for tax administration purposes and as necessary pursuant to executive law section 49 and when the taxpayer gives written authorization to this department for another department, person, agency or entity to have access, limited or otherwise, to information contained in his return.