

**Instructions for Form FT-500****Application for Refund of Sales Tax Paid on Petroleum Products****FT-500-I**

(9/11)

**Who may use this form**

- A Exempt organizations (except for New York State (NYS) government entities)
- B Qualified Indian nations or tribes
- C Farmers or commercial horse boarding operators
- D Qualified empire zone enterprises (QEZE) who use the fuel in qualifying motor vehicles or who use the fuel directly and predominantly (at least 50%) in empire zones where they have qualified to receive benefits
- E Omnibus carriers or vessel operators providing local transit service within NYS
- F Purchasers of fuel used for residential heating
- G Indians who are enrolled members of an exempt tribe or nation, and who took delivery of the motor fuel or diesel motor fuel on a qualified reservation for their use
- H Manufacturers, processors, generators, assemblers, refiners, miners, and extractors
- I Other purchase exempt pursuant to Tax Law Section 1115(a)

**Note:** This form may not be used to claim a refund of the prepaid sales tax. See Form FT-949, *Application for Refund of Prepaid Sales Tax on Motor Fuel Sold Other Than at Retail Service Stations*, FT-950, *Application for Refund of Prepaid Sales Tax on Motor Fuel Sold at Retail Service Stations*, FT-1007, *Application for Refund of Prepaid Sales Tax on Highway Diesel Motor Fuel Sold at Retail Service Stations*, FT-1010, *Application for Refund of Prepaid Sales Tax on Diesel Motor Fuel Sold Other Than at Retail Service Stations*, or *Schedule FR* of your sales tax return for details.

**Line Instructions**

**Line 2** — Enter the beginning and ending dates of the period for which this application is being made in the format shown. The period covered by the claim should be at least one month, but can include more than one month. The beginning date should be the first day of a month and the ending date should be the last day of the month. If your claim is based on a QEZE exemption, a refund may only be filed once each sales tax quarter.

**Line 8**

**A — Exempt organizations** — Organizations include religious, charitable, scientific, and educational institutions that have qualified for exempt status under NYS sales tax law; certain posts or organizations consisting of past or present members of the armed forces of the U.S.; and certain credit unions. See Publication 843, *A Guide to Sales Tax in New York State for Exempt Organizations*, for more information.

A NYS government entity may claim a refund by filing Form FT-504, *Claim for Refund of Taxes Paid on Fuel by a Government Entity*.

If you marked A, *by an exempt organization*, you must enter the exempt organization number. You must also attach a copy of Form ST-119, *Exempt Organization Certificate*, to this application.

**B — Qualified Indian nations or tribes** — Only the Indian nations and tribes identified below are eligible for a refund of sales tax paid on their purchases of motor fuel and diesel motor fuel.

- Cayuga
- Oneida Indian Nation
- Onondaga Nation of Indians
- Poospatuck
- St. Regis Mohawk
- Seneca Nation of Indians
- Shinnecock
- Tonawanda Band of Senecas
- Tuscarora Nation of Indians

To qualify, the nation or tribe must have applied for and received a 6-digit exempt organization number from the Tax Department (Form ST-119). If you marked B, *by a qualified Indian nation or tribe*, you must enter the exempt organization number. You must also attach a copy of Form ST-119 to this application.

**C — Farm production or commercial horse boarding operations**

— Motor fuel and diesel motor fuel used or consumed in farm production or in a commercial horse boarding operation, or in both.

Attach a statement describing in detail the manner in which the motor fuel or diesel motor fuel was used.

*Farming* includes:

- agriculture, floriculture, horticulture, viniculture, viticulture, aquaculture and silviculture
- stock, dairy, poultry, fruit or vegetable, furbearing animals, graping, truck and tree farming
- ranching
- operating nurseries, greenhouses, vineyard trellises or other similar structures used primarily for the raising of agricultural, floricultural, horticultural, vinicultural, viticultural or silvicultural commodities
- operating orchards
- raising, growing, and harvesting crops, livestock and livestock products, and raising, growing, and harvesting woodland products, including, but not limited to, timber, logs, lumber, pulpwood, posts and firewood

*A commercial horse boarding operation* is:

- an agricultural enterprise consisting of at least 7 acres and boarding at least 10 horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production.

**Note:** A commercial horse boarding operation does not include operations whose primary on-site function is horse racing.

**D — Qualified Empire Zone Enterprise (QEZE)** — You may apply for a refund of sales tax paid on qualifying fuel purchases if you are a QEZE for sales and use tax purposes and you meet the criteria below.

If you were certified by Empire State Development (ESD) **before** April 1, 2009, you must have:

- applied for and received Form DTF-81, *Qualified Empire Zone Enterprise (QEZE) Sales Tax Certification*, from the Tax Department;
- received your Empire Zone Retention Certificate (EZRC) from ESD; and
- passed the employment test for the tax year ending before the period covered by this claim.

If you meet these qualifications, you may use this form to claim a refund for tax paid on qualifying fuel purchases.

If you were certified by ESD **on or after** April 1, 2009, you must have:

- received your EZRC from ESD; and
- passed the employment test for the tax year ending before the period covered by this claim.

If you meet these qualifications, you may use this form to claim a refund for tax paid on qualifying fuel purchases, but only if the qualifying purchase is made in a locality that has elected to provide the refund. For more information, see Publication 718-QZ, *Qualified Empire Zone Enterprise (QEZE) Sales and Use Tax Refund Rates, and TSB-M-09(12)S, Changes to Qualified Empire Zone Enterprise (QEZE) Program (Articles 28 and 29) - Effective September 1, 2009*.

You **must** pass an employment test at the end of every tax year (calendar or fiscal) to determine if you qualify for QEZE sales tax benefits for the next tax year. The effective date from your

*Certificate of Eligibility* (issued by ESD) determines which worksheet you need to include.

- Form AU-12.1, *Employment Test for Businesses Certified by Empire State Development (ESD) Before April 1, 2005*
- Form AU-12.2, *Employment Test for Businesses Certified by Empire State Development (ESD) On or After April 1, 2005, and Before April 1, 2009*
- Form AU-12.3, *Employment Test for Businesses Certified by Empire State Development (ESD) On or After April 1, 2009*

If you were certified before April 1, 2009, complete the employment test using your base period information from your application for QEZE sales tax certification filed with the Tax Department (Form DTF-80, *Application for a Qualified Empire Zone Enterprise (QEZE) Sales Tax Certification*; Form DTF-82, *Application for a Qualified Empire Zone Enterprise (QEZE) Sales Tax Certification — For businesses certified by Empire State Development before August 1, 2002*; Form DTF-83, *Application for a Qualified Empire Zone Enterprise (QEZE) Sales Tax Certification — For businesses certified by Empire State Development on or after August 1, 2002, and before April 1, 2005*; or Form DTF-84, *Application for a Qualified Empire Zone Enterprise (QEZE) Sales Tax Certification — For businesses certified by Empire State Development on or after April 1, 2005, and before April 1, 2009*).

If you have more than one empire zone (EZ) location, use the effective date from your first (earliest) *Certificate of Eligibility* to determine which worksheet you need to file.

You must complete and pass the employment test using your employment numbers for the tax year ending **before** the period covered by this application to qualify for the refund being claimed. Once you have completed the employment test worksheet for a tax year, attach a copy of that worksheet to any subsequent claim for refund to which that employment test applies.

If your refund claim covers periods from more than one tax year, you must complete and attach employment test worksheets for each tax year required.

To qualify, the fuel must be used or consumed predominantly in an EZ where the QEZE has qualified for benefits; or the fuel must be used in a qualifying motor vehicle. For purposes of the refund, a QEZE's use of a motor vehicle or property related to a motor vehicle will be found to occur predominantly in an EZ where the QEZE has qualified for benefits if:

- the QEZE uses the vehicle at least 50% exclusively in such a zone; or
- at least 50% of the vehicle's use is in activities originating or terminating in such a zone; or
- at least 50% of its use is a combination of use exclusively in such a zone and in activities originating or terminating in such a zone.

The QEZE may choose to compute the usage of the vehicle based on either hours of use or miles traveled. A refund claim may be filed only once each sales tax quarter. See Publication 718-QZ to determine whether you can apply for a refund of the state tax only, or if you are entitled to a refund of the state and local tax.

You **must attach** all required substantiation and documentation or your claim will not be processed. This includes:

- copy of the *Certificate of Eligibility* issued by ESD;
- copy of the EZRC issued by ESD;
- employment test worksheet:
  - Form AU-12.1, if you were certified by ESD **before April 1, 2005**
  - Form AU-12.2, if you were certified by ESD **on or after April 1, 2005, and before April 1, 2009**
  - Form AU-12.3, if you were certified by ESD **on or after April 1, 2009**
- documentation regarding the manner in which the motor fuel or diesel fuel was used;

- invoices, receipts, proof of payment of tax, etc.

**E — Omnibus carrier or vessel operator** — Omnibus carrier and vessel operators who provide local transit service in NYS and operate pursuant to a certificate of public convenience and necessity issued by the NYS Commissioner of Transportation or by a like officer or agent of the U.S., or pursuant to a contract or agreement with New York City (NYC). An *omnibus* is a motor vehicle with a seating capacity of more than seven passengers used for the transportation of passengers for hire. A *vessel* is any type of watercraft with a seating capacity of more than 20 passengers that is used for the transportation on water of passengers for hire.

The refund applies to sales and use tax paid on fuel purchased and used in the operation of a qualifying omnibus or vessel. The refund is based on the *local transit service percentage*, which is the proportion that an omnibus carrier's vehicle mileage or a vessel operator's vessel hours operated in local transit service in NYS in the calendar year immediately preceding the end of the quarterly return period to which such refund relates bears to the total omnibus carrier's vehicle mileage or the vessel operator's total vessel hours operated in NYS in such year. The amount of the refund is determined by multiplying the sales or use tax paid by the omnibus carrier or vessel operator on its purchases of fuel during the quarter by the operator's local transit service percentage. If the omnibus carrier or vessel operator was not engaged in local transit service in the prior calendar year, it would determine its local transit service percentage with respect to its first four quarterly sales tax returns by using the proportion that the omnibus carrier's vehicle mileage operated or the vessel operator's vessel hours in local transit service in NYS in the first three months of operation bears to the omnibus carrier's total mileage or the vessel operator's total hours operated in NYS in those three months.

If the local transit service percentage is:	The refund or credit is:
Less than 10%	None
10%	10% of the combined state and local taxes paid
Greater than 10%, but less than 70%	10% plus the product of 1.5 times each whole percent of excess of 10% of the combined state and local taxes paid
70% or more	100% of the combined state and local taxes paid

*Local transit service* — For omnibuses, *local transit service* means a mass transit service (as distinguished from a charter, contract, school bus, sightseeing, or other service) provided by an omnibus carrier in which passengers are carried by omnibuses from one point in NYS to another point in NYS and in performance of which the omnibuses either:

- regularly pick up or discharge passengers at their convenience or at bus stops on the street or highway, as distinguished from buildings or facilities used for bus terminals or stations; or
- pick up and discharge passengers at bus terminals or stations, the distance between which is not more than 75 miles, measured along the route traveled by the bus.

*Vehicle mileage* — Vehicle mileage means the number of miles run by all omnibuses operated by a carrier in the performance of local transit service plus the number of idle miles run to the point at which service begins and from the point at which such service terminates. Such mileage includes only miles operated within NYS.

*Total mileage operated* — Total mileage operated includes the vehicle mileage plus the number of miles operated in charter service, school contract service, other contract service, excursion service, sight-seeing service, and all other passenger service which is not included within the meaning of vehicle mileage. Such mileage includes only miles operated within NYS.

For vessels, *local transit service* means a mass transit service (as distinguished from a charter, contract, excursion, sightseeing or other passenger service) provided by a vessel operator in which passengers are carried by a vessel operator from one point in NYS to another point in NYS and in performance of which the vessels:

- (a) regularly pick up and discharge such passengers as scheduled, or at their convenience, at designated piers, slips, docks, or other landings along waterways, as distinguished from buildings or similar facilities used as terminals or stations; or
- (b) pick up and discharge passengers at terminals or stations, the distance between which is not more than 75 miles, measured along the route traveled by the vessels; or
- (c) picks up and discharges passengers as described in both (a) and (b).

*Vessel hours* — Vessel hours means the number of hours that all vessels are operated by a vessel operator in the performance of local transit service, plus the number of idle hours used to reach the point at which such service begins and from the point at which such service terminates. Such hours include only those hours operated in NYS.

*Total hours operated* — Total hours operated means the vessel hours computed as described above (see *Vessel hours*), plus the number of hours used in charter, contract, excursion, sight-seeing, and all other passenger service, which hours are not included in the meaning of vessel hours. Such hours include only hours operated in NYS.

If you marked box D, *by an omnibus or vessel operator in local transit service*, you must attach a copy of your local transit service percentage computation.

**F — Residential purposes** — Fuel used for residential purposes is exempt from NYS sales tax, but is subject to local tax in some areas.

The Tax Law provides that residential energy sources and services are **not subject** to the 4% NYS sales and use tax rate and the ½% sales tax rate imposed within the MCTD. Counties and cities that impose a local sales and use tax may choose to either tax or exempt residential energy sources and services. If you purchased motor fuel or diesel motor fuel on which you paid full NYS and local sales tax and this fuel was used for residential purposes, you are entitled to a refund of the NYS, and possibly the local, sales tax. See Publication 718-R, *Local Sales and Use Tax Rates On Residential Energy Sources and Services*, for a listing of the local tax rates in effect on residential energy sources and services.

Attach a statement specifying the exemption claimed and describe in detail the manner in which the motor fuel or diesel motor fuel was used.

**G — Qualified Indian** — For a qualified Indian to obtain a refund, he/she must be:

- the direct purchaser and payer of record;
- an enrolled member of one of the exempt nations or tribes listed below;
- purchasing the motor fuel, diesel motor fuel, or heating oil for personal use and **not for resale**; and
- taking delivery of the fuel on one of the qualified reservations listed below.

There is no refund for tax paid on fuel purchased or delivered to the qualified Indian off the reservation.

Only members of the following Indian nations and tribes in NYS are entitled to a sales tax refund:

- Cayuga
- Oneida Indian Nation
- Onondaga Nation of Indians
- Poospatuck
- St. Regis Mohawk
- Seneca Nation of Indians
- Shinnecock
- Tonawanda Band of Senecas
- Tuscarora Nation of Indians

Qualified reservations:

- Allegany
- Cattaraugus
- Oil Spring
- Oneida
- Onondaga
- Poospatuck
- St. Regis Mohawk (Akwesasne)
- Shinnecock
- Tonawanda
- Tuscarora

If you marked G, *by a qualified Indian*, you must enter the tribe or nation and the qualifying reservation the fuel was delivered to.

**H — Manufacturers, processors, generators, assemblers, refiners, miners, and extractors** — Motor fuel (such as gasoline or liquefied petroleum gas) and diesel motor fuel (highway or non-highway fuel) purchased for use directly and exclusively in the production of tangible personal property for sale are eligible for a refund of NYS and local sales tax. Purchases of motor fuel or diesel motor fuel used or consumed directly and exclusively in the production of gas, electricity, refrigeration, and steam for sale are also eligible for a refund from NYS and local sales tax **except** for the local tax imposed on sales and uses in NYC; however, the NYS portion of sales tax remains eligible for refund.

**Schedule of motor fuel and diesel motor fuel purchases**

You must submit copies of all invoices on which the claim is based. Invoices must be in the name of the claimant and show the amount of tax paid by the claimant. Receipts that do not identify the claimant as the purchaser are not acceptable.

If you need more space, attach additional sheets displaying the information in the same format as the form. Enter the total of the sales tax refund claimed on the additional sheets on the appropriate line.

**Signature**

The application must be signed and dated by the owner (if an individual), a partner (if a partnership), or by the president, treasurer, chief accounting officer, or any other person authorized to act on behalf of the corporation (if a corporation).

The fact that an individual's name is signed on the certification will be prima facie evidence that the individual is authorized to sign and certify the report on behalf of the applicant.

Additionally, if anyone other than an employee, owner, partner, or officer of the applicant is paid to prepare the application, he or she is required to sign and date the application and provide his or her mailing address.

**Paid preparer identification numbers**

New York State Tax Law requires certain paid tax return preparers and facilitators of refund anticipation loans (RALs) and refund anticipation checks (RACs) to register electronically with the Tax Department. When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. (Information on the New York State Tax Preparer Registration Program is available on our Web site. See *Need help?*) In addition, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number (SSN). (PTIN information is available at [www.irs.gov](http://www.irs.gov).)

**When to file**

You must file the application for refund within three years from the date the tax was payable to the Tax Department.

**Where to file**

Mail refund applications to: **NYS TAX DEPARTMENT  
FUEL TAX REFUND UNIT  
PO BOX 5501  
ALBANY NY 12205-0501**

### Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed 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 obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to the appropriate address listed in Publication 55.

### 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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

### Need help?



Visit our Web site at **[www.tax.ny.gov](http://www.tax.ny.gov)**

- get information and manage your taxes online
- check for new online services and features



#### Telephone assistance

**Sales Tax** Information Center: (518) 485-2889

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.