



Instructions for Form CG-11

Cigarette Tax Floor Tax Return

Effective June 3, 2008, the New York State excise tax on cigarettes increased by \$1.25 per pack of 20 cigarettes (i.e., from \$1.50 to \$2.75 for state-only stamped cigarettes and from \$3.00 to \$4.25 for New York State and New York City joint-stamped cigarettes).

If a package contains more than 20 cigarettes, the rate of tax on the cigarettes in excess of 20 increased from 37½¢ to 68¾¢ for each five cigarettes or fraction thereof.

A floor tax is imposed on all cigarettes stamped at the pre-June 3, 2008, rate and unaffixed tax stamps on hand at the close of business June 2, 2008.

Taxpayer information

A peel-off label has been provided for those taxpayers that the department has identified as potential floor tax filers. Place the label on the name and address box near the top of Form CG-11. Make any necessary changes directly on the label.

If you do not have a peel-off label, clearly print or type the business name as it appears on your cigarette license and your complete street address, including city or village or post office, state, and ZIP code.

Enter your sales tax identification number. Enter your agent's license number and wholesale dealer license number, if applicable.

Check *Yes* or *No* to indicate if you qualify and are electing to pay in two installments. See *Installment payments* below.

Check *Yes* or *No* to indicate all of your business activities.

Installment payments

If your cigarette floor tax liability is \$500 or less, you must make payment in full by August 20, 2008.

If your cigarette floor tax liability is more than \$500, you may choose to pay it in two installments. The first installment must be paid with the floor tax return due on or before August 20, 2008, and must be at least 25% of the floor tax due, but not less than the minimum payment of \$500. Any unpaid balance is due in a second and final installment no later than December 22, 2008. A notice of balance due will be sent to those taxpayers required to remit a second and final installment of their cigarette floor tax liability.

To be eligible for the installment option, you must 1) make an election on Form CG-11 (5/08); 2) file this return on time; 3) pay at least the required minimum amount by August 20, 2008; and 4) pay the remaining balance due no later than December 22, 2008.

Who is subject to the cigarette floor tax

Every cigarette stamping agent, wholesale dealer (including vending machine operators), and retail dealer with an inventory of cigarettes (and, in the case of an agent, unaffixed tax stamps) is subject to the cigarette floor tax and must take a physical inventory of cigarettes (and unaffixed tax stamps) on hand at the close of business June 2, 2008. If there are cigarette vending machines on your premises that are owned and operated by a licensed cigarette wholesaler, the wholesaler will be responsible for filing a cigarette floor tax return and paying the tax due on cigarettes in the vending machines.

Filing requirements

Any agent required to file a cigarette floor tax return must 1) take an inventory of unaffixed state and joint state/city tax stamps purchased at the pre-June 3, 2008, rate on hand; and 2) pay a cigarette floor tax of \$1.25 for each state-only or joint stamp that relates to 20 packs, and \$1.5625 for each unaffixed state-only or joint stamp that relates to 25 packs. A resident agent must also take an inventory of unstamped cigarette packs.

Every agent, wholesale dealer (including vending machine operators), and retail dealer must pay a cigarette floor tax of \$1.25 for each state-stamped pack and for each pack of joint stamped cigarettes stamped at the old rate figured on a pack of 20 cigarettes (one pack of 25 cigarettes is counted as 1.25 packs of 20 cigarettes).

The cigarette floor tax return must be filed no later than August 20, 2008.

Failure to file a return or pay the total amount required to be paid by August 20, 2008, will result in civil penalties and interest under Article 20 of the New York State Tax Law and may result in criminal penalties under Article 37 of the Tax Law.

Penalties and interest

Penalty is imposed on a **cigarette stamping agent** at the rate of 10% of the tax due for the first month or any fraction of a month, plus 1% of the tax due for each subsequent month or fraction of a month in which a return remains unfiled or the tax remains unpaid, up to a maximum of 30%. If a return is not filed within 60 days of the due date, the minimum penalty may not be less than the lesser of the tax due or \$100.

Penalty is imposed on **any retail or wholesale dealer** for failure to pay timely at the rate of 50% of the tax due for the first month or any fraction of a month, plus 1% of the tax due for each subsequent month or fraction of a month in which the tax remains unpaid.

If you elect to pay your tax in installments and fail to pay the correct installment by August 20, 2008, the entire amount of tax will be due immediately, and interest and penalty will accrue on the entire amount that remains unpaid. If you paid the correct amount of the first installment timely, but did not pay the second and final installment by December 22, 2008, interest and penalty will accrue on the amount that remains unpaid.

Interest is computed at the rate set by the Commissioner of Taxation and Finance and is compounded daily. It is computed from the day the tax was due until the day the tax is paid. If you need help computing interest, access our Web site at www.nystax.gov and click on the *Online Tax Center* or see *Need help?* on the back.

Vendors with multiple locations

Any person selling cigarettes from more than one location must file one consolidated cigarette floor tax return. Take an inventory of stock on hand at each location. Keep the original inventory report at each location. Enter the business name, address, sales tax and cigarette tax identification number(s) (if different from that on the front of the return), and inventory of each location on Schedule A of the consolidated return.

Vending machine operators

Because of various dates for service calls to vending machine locations (e.g., weekly, biweekly, or monthly), it may be impossible to take a physical inventory of stamped packages of cigarettes in each vending machine on location. We request that each vending machine operator take as many physical inventories as possible with the personnel available. As in the past, we will allow vending machine operators to report a cigarette floor tax on one-half of the "normal fill capacity" for all of those machines that were not physically inventoried on June 2, 2008. Normal fill capacity is the inventory as indicated on the individual inventory card maintained for each vending machine on location. For example, if the normal fill capacity of a machine is 600 packages, we will permit the vending machine operator to report a tax based on one-half of 600, or 300 packages at \$1.25 for a floor tax of \$375.00 for each of these machines. A smaller machine with normal fill capacity of 300 packages will report only one-half of 300, or 150 packages, at \$1.25 for a floor tax of \$187.50 for each of these machines on Schedule B.

The alternative method outlined above only applies to vending machines on location.

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
Business Tax Information Center: 1 800 972-1233
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.

Change of business information If your name, employer identification number, address, or owner/officer information has changed, you must file Form DTF-95, *Business Tax Account Update*. If only your address has changed, you may file Form DTF-96, *Report of Address Change for Business Tax Accounts*. You can get these forms by fax, phone, or from our Web site. See the *Need help?* section above.

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.

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your return and tax payment. 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?* above 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 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, send the forms covered by these instructions to **NYS Tax Department, Miscellaneous Tax Insourcing Unit, W A Harriman Campus, Albany NY 12227**.