



Instructions for Form CG-15

Cigarette Use Tax Return

Who is subject to the cigarette use tax

The state excise tax on cigarettes has two components that together ensure that the proper New York State cigarette tax is paid: (1) the cigarette tax imposed on possession for sale in the state pursuant to Tax Law section 471 (Cigarette Tax); and (2) the cigarette use tax imposed pursuant to Tax Law section 471-a.

The state cigarette use tax must be paid by any person who uses (i.e., possesses, stores, retains, imports, etc.) cigarettes in the state, not including possession for sale, on which the cigarette tax has not been paid and where the use of the cigarettes is not exempt from Tax Law Article 20. Additionally, there is a city excise tax on cigarettes **used** in New York City.

In some instances, only the state cigarette use tax or the city cigarette use tax may be due. In other instances, the New York City use tax may be due on a different number of packages of cigarettes than those subject to the state cigarette use tax.

Example:

*A person purchases cigarettes bearing New York State tax stamps in upstate New York and subsequently uses them in New York City. No New York State cigarette use tax is due since the state cigarette tax was paid at the time of purchase (as evidenced by the affixed tax stamps). However, the New York City cigarette use tax has **not** been paid and is due.*

Note: The applicable rate of cigarette use tax is equal to the applicable rate of cigarette tax. Either the cigarette tax or the cigarette use tax must be paid.

Note: You must complete Form MT-201, *Tobacco Products Use Tax Return*, if you use tobacco products (see *Definitions*) on which the tobacco products tax has not been paid and where the use of the tobacco products is **not** exempt from Tax Law Article 20. To request Form MT-201, see *Need help?*

When to file Form CG-15

Form CG-15 must be filed and the use tax paid within 24 hours after the liability for cigarette use tax occurs (i.e., within 24 hours after the bringing, receiving, or other use of cigarettes in New York State and/or New York City, other than possession for sale).

Note: A person who possesses cigarettes for purposes of sale may be required to be licensed with New York State as an agent and/or cigarette wholesale dealer, as well as registered as a retail dealer. For applications, information, and the appropriate tax returns for **New York State**, see *Need help?*. In addition, a person who possesses cigarettes for sale within New York City may be required to be licensed with **New York City** as an agent and/or cigarette wholesale dealer. Applications, information, and the appropriate tax returns for New York City may be requested by contacting the New York City Department of Finance.

Rates

Effective June 3, 2008, the New York State cigarette use tax rate is \$2.75 on a standard package of 20 cigarettes or fraction thereof. If the package of cigarettes contains more than 20 cigarettes, the tax rate on the number of cigarettes in excess of 20 is 38 cents for each five cigarettes or fraction thereof. Therefore, the state use tax on a package of 25 cigarettes is \$3.4375.

Effective July 2, 2002, the New York City cigarette use tax rate is \$1.50 on a standard package of 20 cigarettes or fraction thereof. If the package of cigarettes contains more than 20 cigarettes, the tax rate on the number of cigarettes in excess of 20 is 68.75 cents for each five cigarettes or fraction thereof. Therefore, the New York City use tax on a package of 25 cigarettes is \$1.88.

Accordingly, the combined New York State and New York City use tax on a standard package of 20 cigarettes is \$4.25, and \$5.3175 on a package of 25 cigarettes.

For purposes of Form CG-15, the use tax due will be figured on the basis of a standard package of cigarettes (20 cigarettes to the package) to

simplify the computations. To convert nonstandard packages (packages containing other than 20 cigarettes) to an equivalent number of standard packages, see *Conversion calculation* on Form CG-15.

Exemptions from the cigarette use tax

The applicable New York State use tax, New York City use tax, or combined state and city use taxes are imposed on cigarettes used in the state or within the state and New York City, unless:

- the cigarette tax (imposed pursuant to Tax Law, section 471) has been paid, as evidenced by the presence of the New York State or New York State and New York City joint tax stamp affixed to the package of cigarettes; or
- the cigarettes being used are specifically exempted from the cigarette tax by Tax Law section 471 (governmental use by the United States, New York State, and the United Nations, and use by authorized persons purchasing from a voluntary unincorporated organization of the armed forces of the U.S.); or
- the cigarettes being used are brought into New York State (or into New York State and New York City) **on or in the possession of the user**, and the number of cigarettes does not exceed 400 (i.e., two cartons or less of standard packages of cigarettes).

Notes: Cigarettes shipped into New York State by mail are **not** brought into the state **on or in the possession of the user**, and therefore do not qualify for the last exemption.

If more than 400 cigarettes are brought into New York State (or into New York State and New York City), then **all** of the cigarettes are subject to tax(es).

Cigarettes acquired by an individual to be given as a gift to another individual are **not** exempt because the law does not exempt gifts of cigarettes.

The Public Health Law provides that it is unlawful for any person engaged in the business of selling cigarettes in New York State or any other state to ship, or cause to be shipped, any cigarettes to a person in New York State, unless the person is a licensed or registered cigarette agent, wholesale dealer, or retail dealer; an export warehouse proprietor or person operating a customs bonded warehouse; or an officer, employee, or agent of the federal or New York State government, or a political subdivision of either (acting in official capacity).

However, if you do receive cigarettes shipped directly to you, Form CG-15 must be filed within 24 hours as explained above.

For additional information, see TSB-M-03(1)M, *Enforcement Provisions Regarding the Sale, Shipment, and Possession of Cigarettes and Tobacco Products in New York State*.

Definitions

Use means the exercise in New York State of any right or power, actual or constructive, with respect to cigarettes; and includes, but is not limited to, the receipt, storage or any keeping or retention for any length of time, but does not include possession for sale.

Person includes an individual, copartnership, limited liability company, society, association, corporation, joint stock company, and any combination of individuals and also an executor, administrator, receiver, trustee, or other fiduciary.

Package means the individual package, box, or other container in or from which retail sales of cigarettes are usually made or intended to be made.

Stamp or cigarette tax stamp means any adhesive stamp, metered stamp, heat transfer stamp, or other form of evidence of payment of the cigarette tax prescribed by the Commissioner of Taxation and Finance and the Commissioner of Finance of New York City.

Unstamped cigarettes means packages of cigarettes upon which the appropriate New York State or New York State and New York City joint stamps evidencing payment of the state or state and city taxes have not been affixed. Packages of cigarettes bearing another state's cigarette stamps are **not** stamped for purposes of the New York cigarette taxes and do not evidence payment of the New York taxes.

Taxpayer identification

Enter your legal name, complete address, and your social security number in the space provided on the front of this form. If other than an individual, enter your federal identification number.

Schedule A and Schedule B

Complete **Schedule A** if the **New York State cigarette tax** has not been paid on cigarettes purchased or otherwise acquired for use in the state.

Complete **Schedule B** if the **New York City cigarette tax** has not been paid on cigarettes purchased or otherwise acquired for use in New York City.

If both the New York State and New York City use taxes are due on the same package of cigarettes, complete Schedule A **and** Schedule B for such cigarettes.

If more than one purchase is made on the same date from the same source, make a separate listing for each. Attach additional sheets if necessary.

Attach a copy of the purchase invoice (or any other documents available) to substantiate your entries.

Column A — Enter the date of use (for example, the date the cigarettes were purchased or otherwise acquired).

Column E — Indicate how the cigarettes were used. For example, for self-use or to be given as a gift.

Column G — Enter the number of nonstandard packages computed as an equivalent number of packages containing 20 cigarettes (see *Conversion calculation* on Form CG-15).

Computation of cigarette use tax

Line 8 — For failure to pay any tax due, the penalty is 50% of the tax due for the first month or part of the month, plus 1% of the tax due for each month thereafter.

In addition, failure to file the required returns or to pay any tax due under Tax Law Article 20 may result in the imposition of criminal penalties under Tax Law Article 37.

Line 9 — Interest is computed at the rate set by the Commissioner of Taxation and Finance and is compounded daily. Interest is computed from the date the tax was due until the date the tax is paid. Interest is a charge for the use of state funds and may not be waived.

You may compute penalty and interest by accessing our Web site at www.nystax.gov and clicking on *Online Tax Center*, or call the business tax information center number listed under *Need help?*.

Payment

Make your check or money order payable to: **Commissioner of Taxation and Finance**.

Attach your remittance and photocopies of your purchase invoices to Form CG-15 and mail to:

**NYS TAX DEPARTMENT
TTTB-FACCTS — CIGARETTE TAX
W A HARRIMAN CAMPUS
ALBANY NY 12227**

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?* in these instructions 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.

When to file and remit payment for a sales and use tax liability

If you purchase cigarettes without paying the New York State and/or local sales tax, or if you purchase cigarettes and pay an amount of sales tax that is less than the combined sales tax rate of the New York State taxing jurisdiction where the cigarettes are to be used, you must report these purchases on your personal income tax return or file Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*. You must remit payment of the difference between the amount of sales tax paid (if any) on the purchase of the cigarettes and the amount of sales tax properly due on the use of the item in this state. When determining the amount of use tax (which is equivalent to sales tax) to be paid with Form ST-140 or your personal income tax return, the state excise tax (i.e., the state cigarette tax or the state cigarette use tax) and, if applicable (for use within New York City), the New York City excise tax (i.e., the city cigarette tax or the city cigarette use tax) must be included in the cost of the item before calculating the amount upon which the use tax (sales tax equivalent) is computed.

If you are required to file a personal income tax return, the sales and use tax liability due on these cigarettes is paid with your personal income tax return. Generally, a personal income tax return, including remittance for any sales and use tax liability, is due on April 15. However, if you are requesting an extension of time to file your personal income tax return and you owe sales and use tax, **you must pay** any sales or use tax you owe **at the time you request the extension**. See Form IT-370, *Application for Automatic Six-Month Extension of Time to File for Individuals*, for more information. If you receive an automatic extension of time to pay your New York State personal income tax (e.g., you are in a foreign country), your sales and use **tax is due when your New York State personal income tax return is due**.

If you are not required to file a personal income tax return, you must report and pay the sales and use tax liability by filing Form ST-140. Form ST-140 is due when the federal income tax return would be due, generally April 15 (without regard to any extension of time to file, and without regard to whether a federal income tax return is required to be filed).

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: 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): 1 800 634-2110



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.

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.