



# Instructions for Form MT-203

## Distributor of Tobacco Products Tax Return

# MT-203-I

(9/06)

Keep these instructions for your records.

## General information

### Who must file

A distributor must complete this return and pay the excise tax due on tobacco products.

**Note:** Failure to file returns or to file properly completed returns may result in revocation of your distributor of tobacco products license.

### When to file

Form MT-203 must be filed for each month on or before the 20th day of the following month. A return must be filed even if no tax is due.

### Definitions

The following definitions relate to tobacco products.

*Tobacco products* include any cigar or roll for smoking, other than a cigarette, made in whole or part of tobacco, and any tobacco, other than cigarettes, intended for consumption by smoking, chewing, or as snuff.

*Wholesale price* is the established price for which a manufacturer sells tobacco products to a distributor before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of the established price, the wholesale price is the manufacturer's invoice price, and in its absence, the wholesale price is the price at which the tobacco products were purchased, unless evidence of a lower wholesale price is established or any industry standard of markups relating to the purchase price in relation to the wholesale price is established. In any event, the wholesale price is the invoice cost without allowance of any quantity discount, cash discount, or any other reduction. **If tobacco products are transferred at no charge, gratis, or are otherwise listed as free goods, it is in effect a discount and the ordinary or usual wholesale price of such products must be added to the invoice to arrive at the total wholesale price subject to tax.** Charges for freight, insurance, customs, duties, and other similar charges necessary to effectuate delivery, if separately stated on the invoice, are not included in the wholesale price. However, federal excise taxes paid by the manufacturer are included in the wholesale price.

### Rate

The New York State excise tax rate on tobacco products is 37% (.37) of the wholesale price.

### Acquisitions of tobacco products during the month

You must account for all tobacco products that you manufactured in New York State, purchased in the state,

imported into the state, received gratuitously, or otherwise acquired during the filing period. Also, include tobacco products transferred from your facilities located outside the state to customers or your facilities located within New York State.

If you are an appointed out-of-state distributor authorized by the Commissioner of Taxation and Finance to pay the tax, enter the number of cigars and the number of pounds of tobacco products other than cigars sold, shipped, or delivered to persons located in New York State.

## Specific instructions

### Tax period and taxpayer identification

Enter the month and year of the period covered by this return if they are not preprinted.

Enter your legal name, trade name, complete address, and taxpayer ID (federal employer identification number or social security number) if they are not preprinted. If the printed information is incorrect, make the appropriate corrections on the return **and** complete Form DTF-95, *Business Tax Account Update*. If only your address is incorrect, file Form DTF-96, *Report of Address Change for Business Tax Accounts*. If you need a copy of either form, see *Need help?* on page 4.

Enter your business telephone number.

Mark an **X** in the appropriate box(es) to indicate whether the business is a manufacturer, importer, or both, or an out-of-state distributor.

**No business this month** — Mark an **X** in the box if you did not import, cause to be imported into the state, or manufacture tobacco products during the month being reported on this return, or in the case of an out-of-state business did not sell tobacco products in New York State. Sign your return and mail it to the address indicated on the return (see *Payment and mailing addresses* on page 3).

**Cancel registration** — Mark an **X** in the box if you are filing a final return and requesting that your registration be canceled. Complete this return for your operations during the month and send it to the address indicated on the return (see *Payment and mailing addresses* on page 3).

**Amended return** — Mark an **X** in the box if this return amends a previous return. Enter the month and year of the period covered by the amended return in the space provided. The amended return should indicate the correct figures for that month, **not** the difference between the amount previously reported and the new figures. A full explanation of the changes must accompany the amended return.

## Instructions for schedules 1, 2, and 3

### Schedule 1 — Suppliers of tobacco products

Complete Schedule 1 on the back of Form MT-203.

Enter the name, address, and telephone number of your tobacco products suppliers. Mark an **X** in the appropriate box to indicate whether your purchase of the tobacco products included or excluded the tobacco products tax. Enter the number of cigars. Enter the pounds of other tobacco products from each supplier. Enter the wholesale price of the cigars and other tobacco products.

Enter the total number of cigars on line 1, column A, and the total wholesale price of the cigars on line 1, column B, on the front of Form MT-203.

Enter the total pounds of other tobacco products on line 2, column A, and the total wholesale price of the other tobacco products on line 2, column B, on the front of Form MT-203.

**Note:** If you are an appointed out-of-state distributor authorized by the Commissioner of Taxation and Finance to make returns and pay the tobacco products tax due on tobacco products sold, shipped, or delivered by you to any person in New York State, you are **not** required to complete Schedule 1. However, you **must** complete lines 1, 2, and 3 on the front of the return for cigars and other tobacco products sold, shipped, or delivered to persons located in New York State.

### Schedule 2 — Transfer of product

Complete Schedule 2 on the back of Form MT-203.

If you transferred tobacco products to out-of-state locations in two or more states, complete a separate copy of Schedule 2 for each state.

Enter the name and address of each out-of-state location to which you transferred tobacco products from your locations in New York State during the filing period. Enter the number of cigars and the pounds of other tobacco products transferred out of state. Enter the wholesale price of the cigars and the other tobacco products.

Enter the total wholesale price of the cigars and other tobacco products and also enter it on line 4 on the front of Form MT-203.

### Schedule 3 — Sold to out-of-state purchaser

Complete Schedule 3 on the back of Form MT-203.

If you sold or otherwise transferred tobacco products to out-of-state purchasers in two or more states, complete a separate copy of Schedule 3 for each state.

Enter the name and address of each out-of-state purchaser. Enter the number of cigars and the pounds of other tobacco products sold to out-of-state purchasers. Enter the total wholesale price of the cigars and other tobacco products.

Enter the total wholesale price of the cigars and other tobacco products and also enter it on line 5 on the front of Form MT-203.

**Note:** If you are an appointed out-of-state distributor authorized by the Commissioner of Taxation and Finance to make returns and pay the tobacco products tax due on tobacco products sold, shipped, or delivered by you to any person in New York State, you are **not** required to complete Schedule 3. You also do **not** need to complete line 5.

### Line instructions

All quantity amounts must be reported either as the number of cigars or as pounds of tobacco.

Round lines 1 through 13 to the nearest dollar. For example, round \$9.49 down to \$9.00; round \$9.50 up to \$10.00.

**Line 1** — Enter the total number of cigars purchased or otherwise acquired in column A. Enter the total wholesale price of the cigars in column B (from Schedule 1 on the back of Form MT-203).

**Line 2** — Enter the total pounds of tobacco products purchased or otherwise acquired, other than cigars, in column A. Enter the total wholesale price of the tobacco products in column B (from Schedule 1 on the back of Form MT-203).

**Distributions of tobacco products on which tax is not due (lines 4 through 9)** — All entries on lines 4 through 9 must be supported by invoices, receipts, etc., to establish that the product was distributed in a nontaxable manner. Failure to maintain the documentation will result in the disallowance of these amounts.

When entering the wholesale price to be deducted, use the wholesale price upon which the tobacco products tax **was paid** or **payable** to the New York State Tax Department by you or by another distributor.

**Example:** Distributor 1 imports \$1,000 of tobacco products and pays a tobacco products tax of \$370 (\$1,000 wholesale price x 0.37 tax rate). Distributor 1 sells **40%** of these products to customers located outside of New York State for \$500. Distributor 1 should enter **\$400** (\$1,000 x 0.40) on line 5 as the wholesale price of tobacco products sold to customers out of state; that is, 40% of the wholesale price on which the tax was paid by Distributor 1.

**Example:** Distributor 1 imports \$1,000 of tobacco products and pays a tobacco products tax of \$370 (\$1,000 wholesale price x 0.37 tax rate). Distributor 1 sells **all** of these products to Distributor 2 for \$2,000. Distributor 2 sells **all** of the products to customers located outside of New York State. Distributor 2 should enter **\$1,000** on line 5 as the wholesale price of tobacco products sold to customers out of state; that is, the wholesale price on which the tax was paid by Distributor 1.

**Line 4** — Enter the total wholesale price of tobacco products transferred from your locations in New York State to your locations out-of-state. **You must also complete Schedule 2 on the back of your return.**

**Line 5** — Enter the total wholesale price of tobacco products sold and shipped tax free to customers

out-of-state. You must also complete Schedule 3 on the back of your return.

**Sales to an out-of-state purchaser** — In order to sell tobacco products tax free to an out-of-state purchaser, possession of the tobacco products must be **transferred to the purchaser at a point outside New York State**. (If an out-of-state purchaser or such purchaser's agent takes possession of tobacco products within New York State, a taxable sale has taken place. The tobacco products tax is due on that sale and is **not** refundable to you.)

**Out-of-state distributors** — An out-of-state distributor is **not** required to complete line 5. Such person is only reporting cigars and other tobacco products sold, shipped, or delivered into New York State (that is, the out-of-state distributor is not accounting for tobacco products from all sources as does a distributor located in the state; nor does an out-of-state distributor need to account on Form MT-203 for sales from an out-of-state location to other locations outside the state).

**Line 6** — Enter the total wholesale price of tobacco products sold to the United States, its agencies, and instrumentalities.

**Line 7** — Enter the total wholesale price of tobacco products sold to Indian nations, Indian tribes, or qualified Indians on a qualified reservation.

**Line 8** — Enter the total wholesale price of tobacco products sold to others who are exempt from the tobacco products tax. Others who may be exempt include:

- a) diplomatic missions and diplomatic personnel; and
- b) voluntary unincorporated organizations of the armed forces of the United States.

**Line 9** — Enter the total wholesale price of tobacco products that are unfit for use and consumption, are unsalable, or have been destroyed. If you returned tobacco products to a manufacturer or other seller, attach a signed statement from the manufacturer or other seller documenting the return of tobacco products. Attach a copy of any approval from the Bureau of Alcohol, Tobacco and Firearms.

**Line 11** — Subtract line 10 from line 3. Enter any negative amount in brackets [ ].

**Line 12** — Enter the total wholesale price of tobacco products included on line 3 on which the tobacco products tax was paid or assumed by another appointed distributor of tobacco products. You must keep the invoices stating who paid or assumed payment of the tax, the date, the quantity, and the price of the tobacco product for at least three years or you will be liable for the tax.

**Line 13** — Subtract line 12 from line 11. Enter any negative amount in brackets [ ].

**Line 14** — Multiply line 13 by the tax rate of 37% (.37). Enter any negative amount in brackets [ ].

**Line 15** — Enter the total amount of adjustments from prior returns. Enter any subtraction in brackets [ ]. Deduct any overpayment or add any underpayment from previous returns. Attach a complete explanation.

**Note:** If you filed an amended return to report changes to a prior return, you may **not** claim that adjustment on line 15.

**Line 16** — Subtract line 15 from line 14. Enter any overpayment amount in brackets (see line 19).

**Line 17** — Penalty is imposed at the rate of 10% (.10) of the amount of tax due for the first month or fraction of a month that the tax remains unpaid, plus 1% for each subsequent month or fraction of a month that the tax remains unpaid, up to a maximum penalty of 30% of the tax due.

If a return is filed more than 60 days after its due date, the minimum penalty becomes the lesser of \$100 or 100% of the tax required to be paid.

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. Interest is a charge for the use of money and may not be waived. If you need help in computing the interest, see *Need help?* on page 4.

**Line 19** — If you want to file a refund claim instead of requesting a credit toward the next month's return, you must submit your refund claim in writing along with any supporting documentation and send it to: **NYS Tax Department — TTTB, Tobacco Products — Refund Claims, W A Harriman Campus, Albany NY 12227**.

You may request that the full amount or any portion of the overpayment shown on line 16 be refunded. However, you may not claim a credit for the overpayment on your return on line 19 and apply for a refund of the same overpayment.

Generally, the refund claim must be filed, or the overpayment amount must be used as a credit, within two years after the tax was paid on the tobacco products.

## Payment and mailing addresses

Make your check or money order payable to: **Commissioner of Taxation and Finance**. Write on your check or money order **Form MT-203**, your identification number, and the period that you are reporting.

Attach your remittance to the return and mail to:

**NYS TAX DEPARTMENT  
TOBACCO PRODUCTS TAX  
PO BOX 1833  
ALBANY NY 12201-1833**

## Certification

Your return must be signed and dated, including the title of the person signing.

The certification must be signed by the owner if an individual, a partner if a partnership, or the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer authorized to act in that capacity, if a corporation. The fact that an individual's name is signed on the certification of the report shall be *prima facie* evidence that such individual is authorized to sign and certify the report on behalf of the distributor.

### 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?* 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 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, MISC TAX INSOURCING UNIT,  
W A HARRIMAN CAMPUS, ALBANY NY 12227.**

### 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.

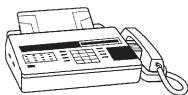
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

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.

### Need help?



**Internet access:** [www.nystax.gov](http://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



#### Hotline for the hearing and speech impaired:

If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, 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.