
Important Notice

April 2004

Refund Claims by Registered Retail Dealers and Licensed Wholesale Dealers of Cigarettes

A retail dealer (including a chain store) or a wholesaler dealer of cigarettes may apply for a refund of the tax paid on New York State cigarette stamps (including the New York City tax in the case of joint stamps*) affixed to cigarettes that have become unfit for use and consumption, damaged, or unsalable.

Historically, cigarette retailers and wholesale dealers have returned this product to the manufacturer through a New York State licensed stamping agent, with the agent applying for the cigarette tax and prepaid sales tax refund. The Tax Department had allowed cigarette stamping agents to submit affidavits prepared by the manufacturers in support of these refund claims. However, we have learned that most tobacco manufacturers have changed their returned goods policies and no longer accept return of stale or slow-moving product. As a result, affidavits previously prepared by manufacturers upon return of the product and submitted by cigarette stamping agents no longer are being issued. In many cases, the product now remains in the cigarette retailer's or wholesale dealer's possession. Accordingly, the Tax Department has developed the following new procedure for retailers or wholesalers requesting a refund in this situation:

- The retail or wholesale dealer must submit to the Tax Department Form CG-114, *Claim for Redemption/Refund of Cigarette Tax Stamps and Prepaid Sales Tax (Part II)*, the corresponding stamped packages of cigarettes, and copies of the corresponding purchase invoices.
- Stamped packages of cigarettes must be sorted: first, by *State Only* and *Joint City and State* stamps; then, by color of stamp. When submitting your claim, a list of this information, along with a total for each category, must be attached.
- If the number of packs of cigarettes to be returned exceeds 5,000, send in only the refund claim and corresponding invoices and a Tax Department representative will contact you to arrange an on-site inspection. (After you receive authorization, you must arrange to destroy the cigarettes in a manner acceptable to the Tax Department.)
- The cigarette tax law and regulations provide that a retailer or wholesaler must apply for a refund of the excise tax within two years from the date the stamped packages of cigarettes were purchased, and must apply for a refund of the prepaid sales tax within three years from the date the stamps were purchased.

This procedure will be effective immediately. **However, due to the New York State cigarette floor tax that took effect April 3, 2002, the department will consider all New York State cigarette tax stamps to be eligible for refund until May 3, 2004, regardless of when purchased.** Beginning May 4, 2004, the two-year statutory refund rule for excise tax and the three-year statutory refund rule for prepaid sales tax will apply.

If you have any questions or concerns, please contact the Tax Department at 1 888 484-5434.

You can obtain Form CG-114 by mail, by calling 1 800 462-8100; by fax, by calling, 1 800 748-FORM (3676); or you can download a copy from our Web site at www.nystax.gov

* If there is a New York City refund due on the cigarettes returned to New York State, New York State will forward this information to the New York City Department of Finance. New York State will verify and approve the number of stamped packs of cigarettes for which a refund from New York City would be due. New York City will issue a refund based upon the verification and approval of New York State. No refund claim for the New York City cigarette tax is required to be sent.