

A temporary restraining order applies to the increased application fees under the 2009 State budget amendments for the registration of cigarette retail dealers and vending machine operators selling cigarettes and tobacco products. As a result, for the year beginning January 1, 2010, you must:

- Register using Form DTF-716, *Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes and Tobacco Products*, including their total gross sales **or** renew using Form DTF-719-MN, *Renewal Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes and Tobacco Products*, including their total gross sales
- Pay a \$100 registration application fee for each retail location and vending machine. However, you can **voluntarily** pay the registration fee based on the new fee structure. See the application form for more information.

The Department will not issue 2010 registration certificates until further notice. Registration certificates issued for the 2009 calendar year remain valid, as do 2009 versions issued to new registrants.

If the court upholds the new registration application fees and you paid only the \$100 fee, you must:

- pay the additional fee amount to continue your registration and receive a 2010 registration certificate; and
- calculate the additional amount using the new fee structure, with a credit for the \$100 already paid



Instructions for Form DTF-716

Application for Registration of Retail Dealers

and Vending Machines for Sales of Cigarettes and Tobacco Products

DTF-716-I

(6/09)

If you were registered to sell cigarette or tobacco products in 2009, **do not use this form to renew your registration.** Complete and file Form DTF-719, *Renewal Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes and Tobacco Products.*

General information

Every new retail dealer of cigarettes or tobacco products in New York State, and every new owner or operator of vending machines through which cigarettes or tobacco products are sold, must complete and file Form DTF-716, *Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes and Tobacco Products.* This form should also be used if you have already registered for 2010 and wish to add new locations or additional vending machines.

We encourage you to apply for your Form DTF-720, *Retail Dealer Certificate of Registration for Cigarette and Tobacco Products*, on New York State's Online Permit Assistance and Licensing (OPAL) Web site at www.nys-permits.org. Filing your application online is the fastest way to receive your certificate. The speed and accuracy of computers allow electronic applications to be processed faster than paper applications, greatly reducing the possibility of errors and delays.

Note: Every retail dealer is liable for the tobacco products tax on all tobacco products in his/her possession at any time, unless the tax has already been paid or assumed by a distributor appointed by the Tax Department. An invoice issued by a licensed tobacco products distributor or wholesale dealer is considered proof that the tobacco products tax has been paid. Invoices must be made available upon request of the Tax Department, and any failure to produce an invoice results in the retail dealer being liable for payment of the tax.

For purposes of this registration, a *retail dealer* is any person who sells cigarettes or tobacco products in New York State, other than a wholesale dealer, or owner/operator of vending machines. Licensed wholesale dealers that also sell cigarettes at retail are required to register to obtain Form DTF-720 for each of the retail locations where they sell cigarettes. Sales by a retail dealer may be made over the counter at a specific location, or from a cart, truck, stand, or other merchandising device (not including a vending machine). Separate registrations are required for each business location (for example, a dealer selling cigarettes at four counters or booths at a civic center or a fair would need four registrations, while a dealer selling cigarettes at a retail store and from a cart would need two registrations). A certificate of registration is only valid for sales made at the business location specified on Form DTF-720.

For purposes of this registration, an *owner or operator of a vending machine* is anyone who sells cigarettes or tobacco products through a vending machine. Each of these machines must be registered. If the owner is the operator, the owner registers the machines; otherwise, the operator registers them.

Vendors who sell cigarettes or tobacco products through vending machines and at other locations must apply for **both** registrations (the retail dealer registration **and** the registration for each machine). Form DTF-720 must be publicly displayed in each place of business operated by the retail dealer and on each cart, truck, stand, or other merchandising device through which these items are sold. Form DTF-721, *Vending Machine Registration Certificate for Cigarettes and Tobacco Products*, must be conspicuously affixed to each registered vending machine.

Note: If you own, operate, or maintain one or more vending machines in, at, or on the premises owned or occupied by another person, you **must** possess a license as a wholesale dealer of cigarettes. You may obtain Form CG-100-V, *Application for License as a Wholesale Cigarette Dealer Who Only Operates Vending Machines*, and other forms required for proper registration by calling (518) 485-0181. For inquiries relating to your cigarette and tobacco products certificate application, please see *Need help?* on back of this form.

Fees due for retail dealer registration or vending machine registration **must** be submitted with the application and are generally nonrefundable. Registrations are valid for a calendar year and must be renewed annually.

Vendors who are starting business or requesting certificates for additional locations or machines must file this application at least 30 days prior to the anticipated start date, and must receive the registration

certificates before beginning sales of cigarettes and tobacco products at the new location(s) or through the additional machine(s).

Any retail dealer or vending machine registrations applied for after January 1 will be valid only for the **balance** of the calendar year in which they were issued. Fees will not be prorated. These registrations are not assignable or transferable and must be immediately surrendered if business ceases or does not commence. In this case, any vending machine certificates already issued and affixed must be destroyed. (Expired certificates do not have to be returned.)

Consignment certificates are available after January 1 to any vending machine owner/operator who has 100 or more vending machines registered. For information, see *Need help?* on back.

Fees imposed by Tax Law section 480-a, which requires registration of cigarette retail dealers and vending machines, are administered under the provisions of the Sales and Use Tax Law. Thus, the sales and use tax provisions relating to personal liability and administration, penalties, etc., will apply.

Specific instructions

If you are a new applicant, or if you did not register as a sales tax vendor before starting business, you **must** immediately file Form DTF-17, *Application to Register for a Sales Tax Certificate of Authority*. If you continue to operate a business in New York State without filing this form, you will be subject to a penalty of up to \$10,000 and you will be unable to purchase cigarettes or tobacco products from your suppliers at wholesale prices or for purposes of resale. In addition, the Cigarette Tax Law provides that a retail dealer operating without proper registration is liable for a civil fine of at least \$5,000 but not more than \$25,000 for a first violation, and a civil fine of at least \$10,000 but not more than \$35,000 for a second or subsequent violation within three years. A vending machine owner or operator who is not properly registered is liable for a civil fine of at least \$750 but not more than \$2,000 for a first violation, and a civil fine of at least \$2,000 but not more than \$6,000 for a second or subsequent violation within three years.

In addition to being granted Form DTF-720 or Form DTF-721, you must file Form DTF-17 and have a valid *Certificate of Authority* before buying or selling cigarettes or tobacco products. See *Need help?* on back if you need Form DTF-17.

If you file one sales tax return for all business locations, you **must** file **only one** Form DTF-716 to register for all your locations. However, if your sales tax identification number ends with a two-character suffix (01, 02, S1, S2, etc.), you **must** file a separate Form DTF-716 for each individual identification number/business location.

The current year's certificate of registration must be on display at your place of business by January 1 of each year, or the start date of your business if after January 1. We will not issue any new or additional certificates if the applicant has not resolved all finally determined liabilities and filing discrepancies.

Legal name of business — Enter the exact legal name of the business you are registering. For a corporation, enter the name that appears on the *Certificate of Incorporation* filed with the New York State Department of State. For an unincorporated business, enter the name in which the business owns property or acquires debt. If the business entity is a partnership, use the partners' names. Enter the name of the individual owner of the business if you are registering as a sole proprietor.

DBA/trade name — Enter the trade name, doing business as (DBA) name, or assumed name if different from your legal name. For a corporation, fill in the name that appears on the *Certificate of Assumed Name* filed with the New York State Department of State. For an unincorporated business, use the name filed with the county clerk's office according to General Business Law section 130.

Sales tax vendor identification number — Enter your sales tax vendor identification number.

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Registered sales tax vendor — Mark an **X** in this box if you are already registered to collect sales tax, and be sure to write in your sales tax vendor identification number in the box at the top of the form.

Form DTF-17 enclosed — Mark an **X** in this box if you are not already registered for sales tax purposes. Enclose your completed Form DTF-17 in order to avoid delays in processing Form DTF-716.

New applicant — Mark an **X** in this box if you are registering as a retail dealer or vending machine operator for the first time.

Registering additional locations or vending machines — Mark an **X** in this box only if you have already renewed your registration or registered as a new applicant and you require additional retail dealer or vending machine certificates. (Additional locations include additional carts, trucks, stands, or other merchandising devices.)

How products are sold — Mark an **X** in only the box or boxes that describe the type of registration for which you are applying. For example, **do not** check the box *Retail locations* if you are selling only through merchandising devices or vending machines.

Line 1 — Enter the date you began business in New York State. If you are not already a registered sales tax vendor and you are applying for that registration at the same time, indicate the date you began or will begin making taxable sales.

If you file one sales tax return for all business locations, you must indicate the date you began or will begin business at each additional location. Attach a separate sheet of paper and list this information for each additional location.

Line 3 — Mark an **X** in the box that most accurately describes your business organization.

A *governmental organization* is the United States of America or any of its agencies or instrumentalities, New York State or any of its agencies, instrumentalities, public corporations, or political subdivisions. This category includes political subdivisions of New York State such as a county, town, city, village, school district, or fire district.

An *exempt organization* for purposes of this application is an organization as defined in Tax Law section 1116.

Parts A and B

Complete page 2 before entering any information on page 1, lines 4 through 12.

Operators of retail business locations, including carts, trucks, stands, or other merchandising devices, must list the business name and address of all locations being registered with this application. In general, the business address cannot be a residential address. For non-stationary operations (for example, trucks) list the address from which you operate your business. Do not include names or addresses of any locations that were listed on any previous application for this annual period.

Vending machine owners/operators must list the business name and address where each vending machine is located. If you have several vending machines at one location, enter the address in column A separately for each machine reported.

Use the fee scale in columns B, C, and D to determine the application fee for each location where you will be making retail sales of cigarettes or tobacco products in the current year. Mark an **X** in the appropriate column for each location. Gross sales include **all** sales of goods and services at each retail location and should reflect the total amounts charged to customers. A retail location with no gross sales in the previous calendar year is subject to the lowest application fee of \$1,000. For each column, add the number of **X**'s listed and any totals from additional sheet(s); enter the total number of certificates requested in the *Column totals* box(es) at the bottom of Part A. Also enter the totals on page 1, lines 4, 5, and 6, as appropriate.

Use the fee scale in columns B, C, and D to determine the application fee for each vending machine from which you will be making retail sales of cigarettes or tobacco products in the current year. Mark an **X** in the appropriate column for each vending machine. For each column, add the number of **X**'s listed and any totals from additional sheet(s); enter the total number of certificates requested in the *Column totals* box(es) at the bottom of Part A. Also enter the totals on page 1, lines 8, 9, and 10, as appropriate.

Lines 4 through 6 — Multiply the number of certificates requested in column A by the appropriate cost in column B; enter this amount in column C.

Lines 8 through 10 — Multiply the number of certificates requested in column A by the appropriate cost in column B; enter this amount in column C.

Payment and mailing address — Make your check or money order payable to: **New York State Sales Tax** for the total amount due on line 12. Write your sales tax vendor identification number, **Form DTF-716**, and the year for which you are registering on the front of your check or money order.

Mail your application and remittance to:

**NYS TAX DEPARTMENT
PO BOX 15175
ALBANY NY 12212-5175**

Do not mail this application in the envelope with your sales tax return.

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.

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?

	Internet access: www.nystax.gov (for information, forms, and publications)	
	Fax-on-demand forms:	1 800 748-3676
	Cigarette Tax Information Center:	(518) 485-7652
	In-state callers without free long distance:	1 877 299-1443
	To order forms and publications:	(518) 457-5431
	In-state callers without free long distance:	1 800 462-8100
	Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY):	1 800 634-2110

Note: New York's Youth Access Tobacco Control Laws prescribe (under Chapter 405 of the Laws of 2000) civil penalties for the sale of cigarettes or tobacco products to minors in violation of its provisions. Such penalties, under Article 13-F of the Public Health Law, include fines and the suspension or revocation of a retail dealer's or vending machine's registration. These laws are enforced by a local designated enforcement officer or the State Health Department.

Also, Public Health Law, Article 13F, section 1399-gg prohibits the manufacture, distribution, or sale of packages containing fewer than 20 cigarettes in New York State, thereby eliminating 10 packs or single cigarettes (loosies).

For more information on these laws, contact your local health department enforcement officer or write or call: Tobacco Enforcement Program, NYS Department of Health, Bureau of Community Environmental Health and Food Protection, Flanigan Square, 547 River Street, Troy NY 12180-2216, (800) 458-1158, extension 2-7600.