

**Note:** See also [TP-64](#), Notice to Taxpayers Requesting Information or Assistance from the Tax Department.

**The publication you requested begins on page 2 below.**

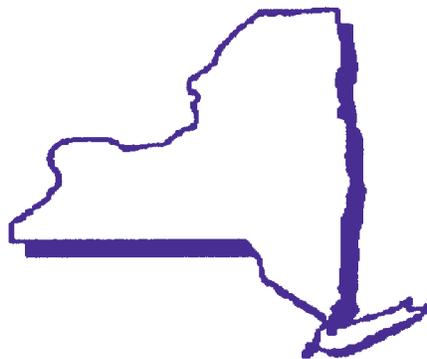
## **New Metropolitan Commuter Transportation Mobility Tax**

Beginning in 2009, certain employers and self-employed individuals engaging in business within the metropolitan commuter transportation district are subject to the Metropolitan Commuter Transportation Mobility Tax.

Please see [TSB-M-09\(1\)MCTMT](#), *Metropolitan Commuter Transportation Mobility Tax*, for more information.

**Publication 20, *New York State Tax Guide for New Businesses*, begins on page 2 below.**

# NEW YORK STATE TAX GUIDE FOR NEW BUSINESSES



The information presented is current as of this publication's print date. Visit our Web site at [www.nystax.gov](http://www.nystax.gov) for up-to-date information.



<b>Table of Contents</b>		<b>Page</b>
I.	Introduction.....	5
II.	Types of organizations and tax responsibilities .....	5
	Sole proprietorship .....	6
	Partnership.....	6
	Estimated tax on behalf of nonresident individuals and corporate partners .....	7
	Limited liability companies and limited liability partnerships .....	7
	Estimated tax on behalf of nonresident individuals and corporate partners .....	7
	New York City unincorporated business tax .....	8
	Corporation.....	8
	New York S corporations.....	8
	Estimated tax of nonresident shareholders.....	9
	Corporation taxes .....	9
	Metropolitan transportation business tax surcharge.....	10
	Corporation dissolution and surrender of authority .....	11
III.	Federal employer identification number (EIN).....	11
IV.	Filing requirements for employers .....	11
	Unemployment insurance, wage reporting, and withholding tax .....	11
	New employer registration.....	12
	Unemployment insurance .....	12
	Wage reporting .....	12
	Withholding tax .....	12
	New hire/rehire reporting requirement .....	13
	Employment verification system.....	13
	Workers' compensation and disability benefits.....	14
V.	Sales and use taxes.....	14
	Sales tax registration .....	15
	Taxable business purchases .....	15
	Terminating business.....	17
VI.	Miscellaneous taxes and fees .....	17
	Cigarettes and other tobacco products.....	17
	Wholesale dealer of cigarettes .....	18
	Cigarette agent .....	18
	Wholesale dealer of tobacco products .....	19
	Distributor of tobacco products .....	19
	Retail dealer .....	19
	Vending machine owner and operator .....	20
	Minimum cigarette prices .....	20
	Tobacco Escrow Funds Act .....	20
	Enforcement provisions for the sale, shipment, and possession of cigarettes and tobacco products in New York State .....	21
	Alcoholic beverages .....	21
	Registrations, licenses, and permits .....	22
	Direct wine shipments into New York State by out-of-state wineries.....	23
	Petroleum products.....	23
	Distributor of motor fuel.....	23
	Importing/exporting transporter.....	24
	Terminal operator .....	24
	Distributor of diesel motor fuel.....	24
	Retailer of heating oil only .....	25
	Distributor of kero-jet fuel only .....	25

<b>Table of Contents (<i>continued</i>)</b>		<b>Page</b>
	Aviation fuel business.....	25
	Residual petroleum product business.....	25
	Highway use and fuel use taxes.....	26
	Highway use tax.....	26
	Fuel use tax.....	26
	Gross receipts tax for furnishing utility and telecommunication services.....	27
	Waste tire management fee.....	28
VII.	Purchasing or acquiring a business or its assets – CAUTION.....	28
	Sales tax information.....	28
	Bulk sale transactions (examples).....	30
	Real estate transfer tax information.....	31
	Licenses or registrations.....	32
VIII.	Business incentives.....	32
IX.	Additional information.....	33
	Record keeping for small businesses.....	33
	Sales and use tax vendors.....	33
	Tax year.....	34
	Accounting methods for income and corporate franchise taxes.....	34
	Accounting methods for sales and use tax.....	35
	Bookkeeping systems.....	35
	Privacy and confidentiality.....	36
	Third-party designee.....	36
	Power of attorney.....	36
	Tax information authorization.....	36
	Permits and licenses.....	37
	Change in your business information.....	37
X.	New York State tax forms and publications for new businesses.....	38
	General business tax forms and publications.....	38
	Personal income tax.....	38
	Corporation tax.....	38
	Unemployment insurance, wage reporting, and withholding tax.....	39
	Sales and use tax.....	39
	Alcoholic beverage tax.....	40
	Petroleum products business taxes.....	40
	Highway use and fuel use tax.....	40
	Cigarette and tobacco products tax.....	40
	Real estate transfer tax.....	40
	Waste tire management fee.....	40
XI.	New York State assistance.....	41
XII.	New York City (NYC) assistance.....	43
XIII.	Federal assistance.....	44

## I. Introduction

Whether you are starting a new business or purchasing an existing one, you will need some basic information about New York State's Tax Law and regulations. This *Tax Guide for New Businesses* outlines the procedures to follow and the forms to file with the New York State Department of Taxation and Finance (the Tax Department). If you are purchasing an existing business or purchasing assets from an existing business, see Chapter VII, *Purchasing or acquiring a business or its assets - CAUTION*, starting on page 28 of this guide. See Chapter X, *New York State tax forms and publications for new businesses*, starting on page 38, for information on how to request tax forms and publications, along with a select list of forms and publications.

Businesses operating in New York City may be subject to one or more New York City business income and excise taxes in addition to the New York State taxes and fees described in this guide. The New York City Department of Finance Web site ([www.nyc.gov/finance](http://www.nyc.gov/finance)) provides information about doing business in New York City. See Chapter XII, *New York City (NYC) assistance* (page 43), for the phone numbers and Web sites of New York City agencies that can assist you with your business needs.

For information on other legal requirements for doing business in New York State and a comprehensive listing of state, local, and federal government agency resources, visit the New York State NYLOVESSMALLBIZ.com Web site.

NOTE: A Publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information contained in a publication. Publications are updated regularly and are accurate on the date issued.

For updates on New York State tax matters that may affect your business or to access publications, TSB-Ms (technical memorandums), Important Notices, Advisory Opinions, and Guidances issued by the Tax Department, visit our Web site ([www.nystax.gov](http://www.nystax.gov)). For federal tax information, visit the Internal Revenue Service (IRS) Web site ([www.irs.gov](http://www.irs.gov)).

## II. Types of organizations and tax responsibilities

Your tax responsibilities as a new business owner, whether you start a business or buy an existing business, will vary depending on the type of organization or entity you operate. Your business may have registration and bonding responsibilities for taxes administered by the Tax Department.

Additionally, the New York State Department of State administers certain licensing and registration requirements for various types of businesses. Visit the New York State Department of State Web site ([www.dos.state.ny.us](http://www.dos.state.ny.us)) for more information.

Regardless of the type of organization you choose, you and your business must comply with federal laws and with the laws of any state in which you operate your business. Before organizing a business, you may wish to consult a professional.

Below are brief descriptions of the various organizations and entities recognized in New York State and the related New York State tax requirements.

## **Sole proprietorship**

A *sole proprietorship* is a business owned and operated by one person (a sole proprietor). This is the simplest and most common form of small business organization.

Sole proprietors must report their business income and expenses on their federal and New York State personal income tax returns. A New York State resident must use Form IT-201, *Resident Income Tax Return*. A nonresident of New York State who has income from New York sources must use Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*. In addition, if you expect to owe New York State, New York City, or Yonkers income tax when you file your personal income tax return, you may be required to make estimated tax payments during the year. For more information, see Publication 94, *Should You Be Paying Estimated Tax?*, Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*, and the instructions for Form IT-2105.

## **Partnership**

A *partnership* exists when two or more persons join together to carry on a trade or business.

For federal and New York State income tax purposes, the term *partnership* includes a syndicate, group, pool, joint venture, or other unincorporated organization that is carrying on a trade or business. The term *partnership* also includes a limited liability partnership (LLP) or a limited liability company (LLC) that is treated as a partnership for federal income tax purposes. A corporation, trust, or estate is not a partnership (although it may be a partner in a partnership).

For New York State tax purposes, partnerships report their income on Form IT-204, *Partnership Return*, **but do not pay any state income tax**. However, a limited liability company (LLC) or limited liability partnership (LLP) that is required to file Form IT-204 may be subject to a filing fee and must also file Form IT-204-LL, *Limited Liability Company/Limited Liability Partnership Filing Fee Payment Form* (see *Limited liability companies and limited liability partnerships* on page 7 of this guide).

A partner that is an individual, estate, or trust will include his, her, or its share of income from a partnership on his, her, or its personal income tax return or fiduciary income tax return and pay tax thereon. A partner that is a corporation will include its share of income from a partnership on its corporation franchise tax return.

**Estimated tax on behalf of nonresident individuals and corporate partners**

Every partnership (including an LLC or an LLP that is treated as a partnership for federal income tax purposes) which has income derived from New York sources may be required to pay estimated tax on behalf of its partners or members who are nonresident individuals or corporations (other than partners or members who are New York S corporations).

For more information, see the instructions for Form IT-2658, *Report of Estimated Tax for Nonresident Individual Partners and Shareholders*, Form CT-2658, *Report of Estimated Tax for Corporate Partners*, Form IT-2658-E, *Certificate of Exemption from Partnership or New York S Corporation Estimated Tax Paid on Behalf of Nonresident Individual Partners and Shareholders*, and Form CT-2658-E, *Certificate of Exemption from Partnership Estimated Tax Paid on Behalf of Corporate Partners*.

**Limited liability companies (LLC) and limited liability partnerships (LLP)**

An *LLC* is an unincorporated organization of one or more members, each having limited liability for the contractual and other liabilities of the business, formed for any lawful business purpose under the Limited Liability Company Law of New York State or any other jurisdiction.

An *LLP* is a partnership that provides professional services and has registered as a limited liability partnership under Article 8-B of the Partnership Law of New York State or any other jurisdiction.

An LLC or LLP which has New York source income and is treated as a partnership for federal income tax purposes must, if it meets certain requirements, file a New York State partnership return using Form IT-204, *Partnership Return*.

An LLC or LLP that is required to file Form IT-204 may be subject to a filing fee and must also file Form IT-204-LL, *Limited Liability Company/Limited Liability Partnership Filing Fee Payment Form*. For more information, see the instructions for Form IT-204 and Form IT-204-LL.

For more information regarding LLCs and LLPs, refer to Publication 16, *New York Tax Status of Limited Liability Companies and Limited Liability Partnerships*.

For information about the New York City tax treatment of LLCs and LLPs, see Finance Memorandum 99-1 (dated October 21, 1999) available on the New York City Department of Finance Web site ([www.nyc.gov/finance](http://www.nyc.gov/finance)).

**Estimated tax on behalf of nonresident individuals and corporate partners**

If an LLC or LLP is treated as a partnership for federal income tax purposes and it has income from New York sources, it may be required to pay estimated tax on behalf of its partners or members who are nonresident individuals or corporations (other than partners or members who are New York S corporations).

For more information, see the instructions for Form CT-2658, *Report of Estimated Tax for Corporate Partners*, Form IT-2658, *Report of Estimated Tax for Nonresident Individual Partners and Shareholders*, Form IT-2658-E, *Certificate of Exemption from Partnership or New York S Corporation Estimated Tax Paid on Behalf of Nonresident Individual Partners and Shareholders*, and CT-2658-E, *Certificate of Exemption from Partnership Estimated Tax Paid on Behalf of Corporate Partners*.

## **New York City unincorporated business tax**

If you plan to conduct business in New York City as a sole proprietor or partnership (including an LLC or LLP that is treated as a partnership for federal income tax purposes), you or your business may be subject to the New York City unincorporated business tax.

For pre-recorded general information on who is subject to the unincorporated business tax, call the New York City Department of Finance at (212) 504-4034 and select messages 109 and 110. For more specific questions on the unincorporated business tax, contact the New York City Department of Finance Business and Excise Tax Customer Assistance Unit at (212) 504-4036 or visit its Web site ([www.nyc.gov/finance](http://www.nyc.gov/finance)).

## **Corporation**

A *corporation* is a legal entity created by filing a *Certificate of Incorporation* with a state, and has a legal existence separate and distinct from its owners (shareholders).

A *domestic corporation* is a corporation incorporated by or under the laws of New York State. A domestic corporation may be formed by filing a *Certificate of Incorporation* with the New York State Department of State, under section 402 of the Business Corporation Law.

A *foreign corporation* is a corporation incorporated under the laws of another state or foreign country. Foreign corporations who want to be authorized to do business in New York State must be authorized by the New York State Department of State. For more information, see Publication 24, *Authorization for Foreign Corporations to Do Business in New York*.

## **New York S corporations**

Under the Internal Revenue Code (IRC), certain corporations may elect, for federal income tax purposes, to be S corporations. The federal election is made by filing federal Form 2553, *Election by a Small Business Corporation*, with the IRS. If the federal election is approved, the shareholders of corporations subject to the New York State franchise tax on general business corporations (Article 9-A) may make a similar election for New York State tax purposes by filing Form CT-6, *Election by a Federal S Corporation to be Treated as a New York S Corporation*. If the state election is also made, shareholders of the corporation pay New York State personal income tax on their pro rata share of income earned by the corporation.

If the shareholders of a general business corporation make the election to be a New York State S corporation and the corporation is subject to the franchise tax on general business corporations, the corporation is subject to the fixed dollar minimum tax determined under Tax Law section 210(1)(d).

Effective for tax years beginning on or after January 1, 2007, in the case of an S corporation subject to the franchise tax on general business corporations that has not made the election to be a New York State S corporation, if more than 50% of its federal gross income for the current year is derived from investment income, then the shareholders of that S corporation are deemed to have made the election to be a New York State S corporation for the entire current tax year.

For more information on S corporations, see Publication 35, *New York Tax Treatment of S Corporations and Their Shareholders*. For information on the fixed dollar minimum tax, refer to the instructions for Form CT-3-S, *New York S Corporation Franchise Tax Return*, and Important Notice N-07-1, *Important Information for New York S Corporations Subject to Article 9-A of the Tax Law*.

#### **Estimated tax of nonresident shareholders**

A New York S corporation which has income derived from New York sources may be required to pay estimated tax on behalf of its shareholders who are nonresident individuals. For more information, see the instructions for Form IT-2658, *Report of Estimated Tax for Nonresident Individual Partners and Shareholders*.

#### **Corporation taxes**

In general, corporations file franchise tax returns on an annual basis. The type of return filed depends on the type(s) of business conducted by the corporation. For more information, visit the Tax Department Web site ([www.nystax.gov](http://www.nystax.gov)) or call our Corporation Tax Information Center at 1 888 698-2908.

A **domestic corporation** (incorporated in New York State) is generally liable for franchise taxes for each fiscal or calendar year, or part thereof, during which it is incorporated, until it is formally dissolved by the Department of State. However, a domestic corporation that is no longer doing business, employing capital, or owning or leasing property in New York State is exempt from the fixed dollar minimum tax for years following its final tax year, provided it meets the requirements listed in TSB-M-06(5)C, *Certain Domestic Business Corporations Exempt from the Article 9-A Fixed Dollar Minimum Tax*.

Every **foreign corporation** that does business, employs capital, owns or leases property in a corporate or organized capacity, or maintains an office in New York State (whether or not the corporation has been authorized by the Department of State) must file a corporate tax return and pay franchise tax. In addition, these foreign corporations must pay a license fee computed on Form CT-240, *Foreign Corporation License Fee Return*. The fee is in

addition to the annual franchise tax and is payable only once unless the corporation's capital share structure changes or the amount of the corporation's capital stock employed in New York State increases from the time the last license fee return was filed. Form CT-240 is filed with the first corporation franchise tax return.

Foreign corporations that are authorized to do business in New York State under Article 13 or 15-A of the Business Corporation Law are subject to an annual maintenance fee, whether or not they actually conduct business in New York State. If an authorized foreign corporation files a corporate tax return, the amount of the franchise tax is credited against the maintenance fee. If a foreign corporation authorized to do business in New York State is not required to file a corporate tax return, the corporation must file Form CT-245, *Maintenance Fee and Activities Return for a Foreign Corporation Disclaiming Tax Liability*, to remit the maintenance fee.

Most corporations are subject to the tax on general business corporations imposed by Article 9-A of the Tax Law. Each corporation computes a tax on four different measures: a tax measured by the entire net income base, a tax measured by the capital base, a tax measured by the minimum taxable income base, and a tax measured by the fixed dollar minimum. The corporation pays the highest computed tax, plus a tax on the subsidiary capital base, if applicable. The tax on the capital base may not apply to certain small business corporations for their first two tax years.

Railroad and trucking corporations are taxed under Article 9-A unless they elect to be taxed under the franchise taxes imposed by sections 183 and 184 of Article 9. To make the election, corporations must file Form CT-187, *Election or Revocation of Election By Railroad and Trucking Corporations To Be Taxable Under Article 9*.

Farmers, fruit growers, and similar agricultural corporations organized and operated on a cooperative basis as described in Article 6 of New York State's Cooperative Corporation Law are subject to the tax imposed by section 185 of Article 9 if they are formed under the laws of New York State or are conducting business or holding property in New York State and must file Form CT-185, *Cooperative Agricultural Corporation Franchise Tax Return*.

**Metropolitan  
transportation  
business tax  
surcharge**

If a corporation does business in the Metropolitan Commuter Transportation District (MCTD), it must also file and pay a metropolitan transportation business tax surcharge (MTA surcharge) on business done in the MCTD. The MCTD includes New York City (the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, Richmond (Staten Island)), and the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester. However, New York S corporations are not liable for the MTA surcharge.

### **Corporation dissolution and surrender of authority**

A New York corporation (domestic corporation) that wishes to be dissolved by the Secretary of State must obtain the consent of the Commissioner of Taxation and Finance before it can dissolve. The Commissioner of Taxation and Finance will not grant his or her consent if the corporation has any unpaid New York State taxes.

A foreign corporation that wishes to surrender its authority to do business in New York State must obtain the consent of the Commissioner of Taxation and Finance before it can do so. The Commissioner of Taxation and Finance will not grant his or her consent if the corporation has any unpaid New York State taxes.

For more information, visit the New York State Department of State Web site ([www.dos.state.ny.us](http://www.dos.state.ny.us)), or the Tax Department Web site ([www.nystax.gov](http://www.nystax.gov)) and access the *Answer Center for Business Taxpayers* and select the category *Ending a Business*, or call the Tax Department's Corporation Dissolution Unit at 1 800 327-9688.

## **III. Federal employer identification number (EIN)**

**E**very business, except for certain sole proprietorships that do not have any employees, should have a federal employer identification number (EIN). Certain nonprofit organizations (churches, clubs, etc.), trusts, and estates must also have a federal EIN. You can obtain a federal EIN for your business by filing federal Form SS-4, *Application for Employer Identification Number*, with the Internal Revenue Service (IRS). Form SS-4 is available on the IRS Web site ([www.irs.gov](http://www.irs.gov)) or by calling the IRS Business and Specialty Tax Line at 1 800 829-4933. You may also apply for a federal EIN online ([www.irs.gov/businesses/small](http://www.irs.gov/businesses/small)).

For information on the federal requirements regarding employer identification numbers, see IRS Publication 1635, *Understanding Your EIN*.

If you are not required to have a federal EIN for your business, the Tax Department will assign an account number to be used on all of your New York State business tax records.

## **IV. Filing requirements for employers**

### **Unemployment insurance, wage reporting, and withholding tax**

Any business that hires employees is subject to the laws requiring the withholding of federal social security taxes, as well as federal and state income taxes. It is also responsible for paying for unemployment insurance, workers' compensation and disability insurance, and for filing wage reporting reports. For more information relating to New York State unemployment insurance, income tax withholding (including city of New York and/or city of Yonkers, if applicable) and wage reporting, see

Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*.

For federal wage reporting and withholding information, see Internal Revenue Service Publication 15, (*Circular E*), *Employer's Tax Guide*, which explains employer filing responsibilities and the withholding and payment of federal income and employment taxes.

### **New employer registration**

New employers can obtain information on how to register for unemployment insurance, wage reporting, and withholding tax by contacting either the New York State Department of Labor (DOL) or the New York State Tax Department.

- **New York State Department of Labor**

Web site: [www.labor.state.ny.us](http://www.labor.state.ny.us)

Telephone assistance: is available from 8:30 a.m. to 4:25 p.m. (eastern time) Monday through Friday by calling 1 888 899-8810 or (518) 485-8589.

- **New York State Tax Department**

Web site: [www.nystax.gov](http://www.nystax.gov)

Telephone assistance is available from 8:00 a.m. to 5:00 p.m. (eastern time), Monday through Friday by calling 1 877 698-2910.

You should obtain your federal employer identification number (EIN) before you register as an employer with New York State.

### **Unemployment insurance**

Generally, if your business has a gross payroll of \$300 or more in a calendar quarter, your business is subject to the New York State Unemployment Insurance Law and must register with the New York State Department of Labor (see *New employer registration* above). For information regarding unemployment insurance liabilities, call the Department of Labor toll free at 1 888 899-8810.

### **Wage reporting**

The Tax Department is required to collect wage reporting information based on definitions used by the Department of Labor in administering the unemployment insurance program. Every employer who is liable under the provisions of the New York State Unemployment Insurance Law is required to file a quarterly wage report with the Tax Department on Form NYS-45, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*.

### **Withholding tax**

Every employer paying wages or making certain other payments (such as pensions) subject to New York State, New York City, or Yonkers income tax withholding must file a return and pay the taxes required to be withheld. For specific information, see Form NYS-1, *Return of Tax Withheld*, the instructions for Form NYS-1, Form NYS-45, *Quarterly Combined*

*Withholding, Wage Reporting, and Unemployment Insurance Return*, and the instructions for Form NYS-45.

In general, for withholding tax purposes, New York State conforms to federal withholding tax concepts.

## **New hire/rehire reporting requirement**

All employers must report to the Tax Department certain identifying information about newly hired or rehired employees working in the state **within 20 calendar days** of the hiring date.

The hiring date is the first day compensated services are performed by an employee. This is the first day any services are performed for which the employee will be paid wages or other compensation.

The following information must be provided for each newly hired employee:

- employee name (first, middle initial, last)
- employee address (street, city, state, and ZIP code)
- employee social security number
- employer name
- employer address (street, city, state, and ZIP code)
- employer identification number (assigned by IRS)

New York State employers may report new hire information electronically with the Tax Department's new hire Web site ([www.nynewhire.com](http://www.nynewhire.com)).

The required information may also be reported by submitting a completed and legible copy of the employee's federal Form W-4, *Employee's Withholding Allowance Certificate*, or an equivalent form as developed by the employer, to:

NYS TAX DEPARTMENT  
NEW HIRE NOTIFICATION  
PO BOX 15119  
ALBANY, NY 12212-5119

or by fax to (518) 869-3318.

For more information on the new hire reporting program and your responsibilities and requirements, visit the Tax Department's new hire Web site ([www.nynewhire.com](http://www.nynewhire.com)) or see Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*.

## **Employment verification system**

Employers must maintain records that show they have reviewed documents that identify each employee and show that each employee is eligible to work in the United States. Your business must have each employee complete federal Form I-9, *Employment Eligibility Verification*. Employers must keep these forms for three years after the date an employee is hired or

one year after the date that employment ends, whichever is later. Forms are available from the U.S. Citizenship and Immigration Services (USCIS).

To order federal Form I-9 or other forms from the USCIS, call the toll free forms request line at 1 800 870-3676. Form I-9 is also available by visiting the USCIS Web site ([www.uscis.gov](http://www.uscis.gov)).

To get additional information on the Federal Immigration Reform and Control Act or for general information from the USCIS, call their Office of Business Liaison at 1 800 357-2099.

## **Workers' compensation and disability benefits**

Every employer should be aware of the obligations it has to provide workers' compensation insurance and disability insurance to its employees. Information about these types of insurance and the forms needed to apply for the insurance are available from private insurance companies or from the local office of the State Insurance Fund. Your business can also get information on current rates for workers' compensation and disability insurance by calling the State Insurance Fund at 1 866 NYSIFDB (1 866 697-4332) or by visiting the State Insurance Fund Web site ([www.nysif.com](http://www.nysif.com)).

## **V. Sales and use taxes**

**I**f your business will sell tangible personal property (goods) or certain services in New York State, it may be required to collect state and local sales and use taxes (sales and use taxes). See Publication 750, *A Guide to Sales Tax in New York State*, and Publication 850, *New York State and Local Sales and Use Tax Quick Reference Guide*, for information regarding sales and use taxes, including information to assist you in determining if your business will be making sales of goods or services that are subject to these taxes. If your business will be making taxable sales, it is required to be registered as a vendor for sales tax purposes before it begins making sales of taxable goods and services.

Publication 750 also includes information on:

- how to become registered as a vendor,
- return filing requirements,
- various exemption documents, and
- record keeping requirements.

In addition, your business must be registered as a vendor in order to issue most New York State sales tax exemption documents. For example, when your business (including a wholesale distributor or manufacturer) buys goods or services that it intends to resell, it must provide the supplier with a properly completed exemption document (resale certificate) to make the purchases without payment of tax and, in most cases, the business must be

registered in order to issue that document. For information on the use and acceptance of electronic exemption documents, see TSB-M-07(1)S, *Electronic Resale and Exemption Documents for Sales and Compensating Use Taxes*.

**Note:** If you are purchasing an existing business or purchasing assets from an existing business, see Chapter VII. *Purchasing or acquiring a business or its assets – CAUTION*, starting on page 28.

## Sales tax registration

If your business is required to be registered as a vendor, it must obtain a *Certificate of Authority* from the Tax Department. This certificate gives your business the authority to collect the required sales and use taxes, and to issue or accept sales tax exemption documents, including resale certificates used for purchasing inventory. If your business makes taxable sales before it receives the *Certificate of Authority*, it may be subject to substantial penalties.

To obtain a *Certificate of Authority*, you must complete Form DTF-17, *Application to Register for a Sales Tax Certificate of Authority*, for your business and send it to the address listed in the instructions for that form, or apply online using the *Online Tax Center* on the Tax Department Web site ([www.nystax.gov](http://www.nystax.gov)). You must apply for your certificate at least 20 days before you begin operating your business.

## Taxable business purchases

If you are conducting business in New York State, you should be aware that your business is required to **pay** state and local sales and use taxes in the following situations, whether or not it is required to be registered as a vendor for sales tax purposes:

- it purchases taxable property (such as inventory) or services without payment of taxes because it intends to resell them, but it later uses the property or services rather than reselling them;
- it purchases taxable property without payment of taxes because it purchased the property from a vendor who is located outside of New York State, and it uses that property in this state;
- it purchases taxable gas or electricity without payment of taxes because it purchased these commodities from a vendor who is located outside New York State, and it uses that gas or electricity in this state;
- it sends property out of New York State to have a taxable service performed on that property, does not pay tax, and then uses that property in this state;
- it purchases property or services outside New York State where it pays the other state's tax and uses the property in New York State (see

Publication 39, *A Guide to New York State Reciprocal Credits for Sales Taxes Paid to Other States*);

- it purchases taxable property, services, hotel occupancy, or pays amusement charges in New York State without payment of taxes;
- it purchases taxable property in one county or city in New York State and then uses the property in a county or city with a higher rate of tax than where it purchased the property; or
- it has a taxable service performed on property in one county or city in New York State and then uses the property in a county or city with a higher rate of tax than where it had the taxable service performed.

Taxes due in the above situations are generally computed on the sales price paid. Your business computes the amount of sales and use taxes due by applying the combined state and local sales tax rate to the sales price. However, if your business uses the property outside New York State for more than six months before first using the property inside the state, tax due may be calculated on the lower of the sales price or fair market value of the property. Also, if your business purchases taxable property outside the state and the property is used in the performance of a contract for a period of less than six months, it may elect to calculate the tax due on the lower of the fair rental value of the property for the period of use within New York or the sales price paid, but only if the property is not completely consumed, or incorporated into real property, in New York State.

Under certain circumstances, the tax your business paid to another state or local jurisdiction qualifies for credit against New York State and local tax. For more information, see Publication 39, *A Guide to New York State Reciprocal Credits for Sales Taxes Paid to Other States*.

Generally, your business does not owe tax on property or services purchased outside New York State before it becomes a resident of New York State. Your business is a New York resident when it incorporates under the laws of New York State or when it conducts business or maintains a place of business within the state. This general rule also applies to local sales and use taxes.

If your business is registered or required to be registered with the Tax Department for sales tax purposes, it must report the sales and use taxes incurred in connection with the taxable business purchases described in this publication and Publication 774, *Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department, Questions and Answers*, with its monthly, quarterly, or annual sales tax return.

If you are an individual, estate, or trust, that is doing business in New York State and you are not registered or required to be registered for

sales tax purposes, and are therefore not required to file a sales tax return as described above, you must report the sales and use taxes incurred in connection with the taxable business purchases described in this publication and Publication 774 on your personal income tax return, fiduciary income tax return, Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*, or Form ST-141, *Individual Purchaser's Periodic Report of Sales and Use Tax*.

If your business is a corporation, New York S corporation, partnership, limited liability partnership (LLP), or a limited liability company (LLC) that is not registered or required to be registered for sales tax purposes, it must report the sales and use taxes incurred in connection with the taxable business purchases described in this publication and Publication 774 on Form ST-130, *Business Purchaser's Report of Sales and Use Tax*.

## **Terminating business**

If your business is registered for sales tax purposes and you sell or otherwise discontinue the business, your business must surrender its sales tax *Certificate of Authority* with the final sales tax return. The final return is due within 20 days of terminating business operations. If you have any questions regarding this procedure, you should call the Sales Tax Information Center at 1 800 698-2909.

If you plan to sell or transfer the assets of your business, you must give each prospective purchaser a copy of Form TP-153, *Notice to Prospective Purchasers of a Business or Business Assets*, advising prospective purchasers of their requirements to notify the Tax Department of the purchase.

## **VI. Miscellaneous taxes and fees**

**I**f you own or operate certain types of businesses, there may be additional tax requirements, including licenses and registrations of which you must be aware. Below are brief descriptions of the various requirements. For further information, contact our Miscellaneous Business Tax Information Center at 1 800 972-1233.

**Please note:** These licenses and registrations are not transferable. See *Licenses or registrations* on page 32 for more information.

### **Cigarettes and other tobacco products**

The following sections describe the licenses and registrations required for businesses dealing with cigarettes and other tobacco products. Your business may be required to obtain more than one type of registration or license described in this section, depending on the nature of your business. In addition, your business must be registered for sales tax purposes (see *Sales tax registration* on page 15) before any of the registrations or licenses described below will be approved. Sales tax registration is required even if

your business will not actually collect or pay sales tax to the Tax Department.

For more information about the licenses and registrations described below, contact the New York State Tax Department Registration and Bond Unit at (518) 457-1407.

### **Wholesale dealer of cigarettes**

If your business sells cigarettes to retail dealers or other persons for resale, or owns, operates, or maintains vending machines upon premises owned by any other person, it must be licensed as a wholesale dealer. For information on the licensing requirements for vending machines, see *Vending machine owners and operators* on page 20.

To apply for a license as a wholesale dealer of cigarettes, file Form CG-100-W, *Application for License as a Wholesale Cigarette Dealer Other Than Those Who Only Operate Vending Machines*. A \$1,500 nonrefundable application fee must accompany your application form. Additionally, your business must file a \$10,000 bond with the Tax Department before it will be registered as a wholesale dealer of cigarettes.

Use Form CG-100-C, *Checklist for Applications CG-100-A, CG-100-W, and CG-100-V*, to ensure that all the necessary items are included with your application.

**Note:** If your business wishes to be licensed as a wholesale dealer and as a cigarette agent, it should apply for both licenses using Form CG-100-A, *Application for License as a Cigarette Agent or Agent/Wholesaler* (see *Cigarette agent* below).

If your business wishes to sell cigarettes at wholesale in New York City, it needs a New York City *Wholesale Cigarette License*. Contact the New York City Finance Department's Wholesale Cigarette Licensing Unit at (718) 403-4318 for more information.

### **Cigarette agent**

All cigarette packages held for sale in New York State must bear New York State cigarette tax stamps. If your business wants to purchase and affix New York State cigarette tax stamps to packages of cigarettes, it must first be licensed as a cigarette agent with New York State.

To apply, file Form CG-100-A, *Application for License as a Cigarette Agent or Agent/Wholesaler*. A nonrefundable application fee of \$1,500 (\$3,000 if applying as both an agent and wholesale dealer) must accompany the application. Agents who wish to purchase cigarette tax stamps on credit must submit a cigarette credit bond or other acceptable security in the amount of the monthly credit desired. Use Form CG-100-C, *Checklist for Applications CG-100-A, CG-100-W, and CG-100-V*, to ensure that all the necessary items are included with your application.

Once registered, cigarette agents must file a monthly report, using Form CG-5, *Nonresident Agent Cigarette Tax Report*, or Form CG-6, *Resident Agent Cigarette Tax Report*.

If your business wishes to purchase and affix the joint New York State **and** New York City cigarette tax stamps to packages of cigarettes, it must also be licensed as a cigarette agent with New York City. Contact the New York City Finance Department's Business Income and Excise Tax Customer Assistance Unit at (212) 504-4036 for more information.

**Wholesale dealer of tobacco products**

If your business sells tobacco products for resale, it must be licensed as a wholesale dealer of tobacco products. To apply, file Form MT-202, *Application for License as a Wholesale Dealer of Tobacco Products or an Appointment as a Distributor of Tobacco Products*. No application fee is required.

**Distributor of tobacco products**

Your business must register as a distributor of tobacco products in New York State before it imports or causes tobacco products (other than cigarettes) to be imported for sale in New York State, or before it manufactures any tobacco products in New York State. In addition, if your business is located outside New York State, it may elect to register as a distributor of tobacco products in New York State and pay the tax for the convenience of its customers located in this state. To apply, file Form MT-202, *Application for License as a Wholesale Dealer of Tobacco Products or an Appointment as a Distributor of Tobacco Products*. Distributors of tobacco products are required to file monthly Form MT-203, *Distributor of Tobacco Products Tax Return*.

**Retail dealer**

If your business sells cigarettes and other tobacco products (such as cigars, pipe tobacco, and snuff), at retail in New York State, it must register with the Tax Department before making any sale by filing Form DTF-716, *Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes or Tobacco Products*. Applicants must pay a \$100 nonrefundable fee for each retail location. Also use Form DTF-716 to add a new retail location to your business if it is already registered.

Registrations expire on December 31 of each year and must be renewed annually, using Form DTF-719, *Renewal Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes or Tobacco Products*. The Tax Department will automatically send the renewal application prior to the renewal date.

If your business intends to sell cigarettes at retail in New York City, it needs a New York City *Retail Cigarette Dealer's License*. For more information, contact the New York City Department of Consumer Affairs: Dial 311 from inside New York City; call (212) NEW YORK (639-9675) if your business is outside the five boroughs; or visit their Web site ([www.nyc.gov/html/dca](http://www.nyc.gov/html/dca)).

**Vending machine owner and operator**

Owners or operators of vending machines located in New York State through which cigarettes or other tobacco products are sold must register with the Tax Department before making any sales by filing Form DTF-716, *Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes or Tobacco Products*. Applicants must pay a \$25 nonrefundable fee for each vending machine to be registered. Also use Form DTF-716 to add additional vending machines to businesses that are already registered.

Registrations expire on December 31 of each year and must be renewed annually, using Form DTF-719, *Renewal Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes or Tobacco Products*. The Tax Department will automatically send the renewal application prior to the renewal date.

In addition, if your business owns, operates, or maintains one or more cigarette vending machines located at premises owned or occupied by another person, your business must file Form CG-100-V, *Application for License as a Wholesale Cigarette Dealer Who Only Operates Vending Machines*. There is no application fee or bond required for wholesale dealers that only operate vending machines. Use Form CG-100-C, *Checklist for Applications CG-100-A, CG-100-W, and CG-100-V*, to ensure that all the necessary items are included with your application.

**Minimum cigarette prices**

Cigarettes may **not** be sold for less than the New York State or New York City minimum prices (whichever apply). Publication 509, *Minimum Wholesale and Retail Cigarette Prices*, indicates the minimum prices for standard brands and standard packages. Publication 508, *Minimum Price List for Cigarettes*, may be used to determine the minimum wholesale or retail cigarette selling prices for standard packages of 20 cigarettes per pack, 10 packs per carton. You may also contact your business's cigarette supplier or call the Miscellaneous Business Tax Information Center at 1 800 972-1233 for these minimum prices.

**Tobacco Escrow Funds Act**

Under the Tobacco Escrow Funds Act, cigarette manufacturers, cigarette stamping agents, and distributors of tobacco products that sell roll-your-own cigarette tobacco (RYO) must comply with certain requirements.

- **Cigarette manufacturers** must deliver a certification annually on Form CG-30, *Certification of Tobacco Master Settlement Agreement Status*, to the Attorney General of New York State, the Commissioner of Taxation and Finance, and every agent who affixes New York State cigarette tax stamps to that manufacturer's products. For more information, see Form CG-30-I, *Instructions for Form CG-30*, and the instructions for Form CG-5/6-ATT, *Schedule B – Cigarettes Packages Stamped During the Month*, and TSB M-01(7)M, *Cigarette*

*Manufacturer Certifications and Prohibition Against the Stamping of Certain Cigarettes.*

- A **cigarette stamping agent** may not affix stamps to a manufacturer’s cigarettes if the agent has not received a certification (Form CG-30), or the Tax Department advises the agent that the manufacturer is in violation of section 1399-pp of the Public Health Law or has filed a false certification. Cigarette stamping agents must provide information regarding the brands of cigarettes stamped each month using Form CG-5/6-ATT, *Schedule B – Cigarette Packages Stamped During the Month*.
- **Distributors of tobacco products** must provide certain information on RYO cigarette tobacco on Form MT-203-ATT, *Information on Roll-Your-Own Cigarette Tobacco Manufactured or Imported by a Distributor*, each month. See TSB-M-06(7)M, *Reporting Requirements for Distributors of Tobacco Products that Import or Manufacture Roll-Your-Own Cigarette Tobacco*, and Form MT-203-ATT, for more information.

**Enforcement provisions for the sale, shipment, and possession of cigarettes and tobacco products in New York State**

It is illegal for anyone engaged in the business of selling cigarettes to ship, or cause to be shipped, any cigarettes to a person in New York State unless the recipient is:

- a licensed or registered cigarette agent, wholesale dealer, or retail dealer;
- an export warehouse proprietor or a 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 an official capacity).

Additionally, a cigarette stamping agent may not affix, or cause to be affixed, a New York State cigarette tax stamp to a package of cigarettes unless the cigarettes have been certified and marked as fire standards compliant, pursuant to section 156-c of the Executive Law. For more information, see TSB-M-03(1)M, *Enforcement Provisions Regarding the Sale, Shipment, and Possession of Cigarettes and Tobacco Products in New York State*, and TSB-M-06(8.1)M, *Clarification of Fire Safety Provisions for Sales of Cigarettes as of August 16, 2007*.

**Alcoholic beverages**

A person or a business must register as a **distributor** of alcoholic beverages with the Tax Department before if it imports or causes to be imported into New York State any alcoholic beverages that are or will be offered for sale or used for any commercial purpose or, in the case of liquor, for **any purpose**; or any purchaser of warehouse receipts for alcoholic beverages

stored in New York State who causes these beverages to be removed from such warehouse. In addition, your business generally must register as a distributor prior to producing any liquor within New York State for sale or before purchasing warehouse receipts in order to remove any liquor stored in a warehouse in New York State.

**Note:** Your business must be licensed by the New York State Liquor Authority (under the Alcoholic Beverage Control Law) before your registration as a distributor of alcoholic beverages will be approved.

New York City imposes an alcoholic beverages tax on liquor containing more than 24% alcohol by volume, and on beer that is sold or used in New York City. Your business must also register as a distributor with the Tax Department to import liquor or beer for sale or use in New York City.

**Registrations,  
licenses, and permits**

To register as a distributor, file Form TP-215, *Application for Registration as a Distributor of Alcoholic Beverages*. No registration fee is required to apply to be a distributor of alcoholic beverages. Your business may be required to file a bond or other acceptable security with the Tax Department either before or after it registers. The amount of the bond or other acceptable security will be determined by the Tax Department. Once registered, distributors must file monthly tax returns (except for cider distributors, who file annual returns).

For more information about the registrations described above, contact the New York State Tax Department Registration and Bond Unit at (518) 457-1407. In addition, your business must also be registered for sales tax purposes (see *Sales tax registration* on page 15) before any of the registrations or licenses described above will be approved. Sales tax registration is required even if your business will not actually collect or pay sales tax.

The New York State Liquor Authority and the federal Alcohol and Tobacco Tax and Trade Bureau also require certain permits and licenses before your business can manufacture or distribute any alcoholic beverages.

For application forms and additional information, visit the New York State Liquor Authority's Web site ([www.abc.state.ny.us](http://www.abc.state.ny.us)) or call:

- Albany (518) 474-3114
- Buffalo (716) 847-3035
- New York City (212) 961-8385
- Syracuse (315) 428-4198

For federal requirements, visit the federal Alcohol and Tobacco Tax and Trade Bureau Web site ([www.ttb.gov](http://www.ttb.gov)) or call 1 877 882-3277.

**Direct wine shipments  
into New York State  
by out-of-state  
wineries**

The Alcoholic Beverages Control Law allows certain out-of-state wine manufacturers to ship limited quantities of their wines directly to eligible consumers in New York State. The out-of-state wine manufacturer must be licensed by the New York State Liquor Authority as a direct shipper, be a registered vendor for New York State sales tax purposes (have a New York State Certificate of Authority), and be a New York State registered distributor of alcoholic beverages.

For more information on licensing requirements for direct wine shipments, call the New York State Liquor Authority at (518) 474-3114.

For more tax information on direct wine shipments, see TSB-M-05(6)M, (9)S, *Tax information regarding direct wine shipments into New York State by out-of-state wineries*.

**Petroleum  
products**

If your business imports, produces, or sells motor fuel (for example, gasoline), diesel motor fuel (including #2 heating oil, #2 fuel oil, kerosene, and kero-jet fuel), or residual petroleum products, it may have to register under the provisions of the excise tax on gasoline and similar motor fuel (Article 12-A of the Tax Law) or the tax on petroleum businesses (Article 13-A of the Tax Law).

If your business imports, produces, or sells petroleum products, it may be required to pay both Article 12-A and Article 13-A taxes, regardless of the article under which it is required to be registered. Your business may also be liable for the prepaid sales tax imposed under Article 28 of the Tax Law.

If your business imports, produces, or sells certain alternative fuels (for example, ethanol or B20 biodiesel), see TSB-M-06(2)M, *Excise Tax and Petroleum Business Tax Exemptions for Certain Alternative Fuels Beginning September 1, 2006*.

Contact the New York State Tax Department Registration and Bond Unit at (518) 457-1407 for more information on the licenses and registrations described in the sections below.

Your business must be registered for sales tax purposes (see *Sales tax registration* on page 15) before any of the registrations or licenses described below will be approved. Sales tax registration is required even if your business will not actually collect and pay sales tax to the Tax Department.

**Distributor of motor  
fuel**

Your business must register as a distributor of motor fuel if it:

- imports motor fuel into New York State (or has it imported) for use, sale, distribution, or storage within New York State; or
- produces, refines, manufactures, or compounds motor fuel within New York State.

To apply for a motor fuel distributor registration, file Form TP-650, *Application for Registration under Articles 12-A and 13-A*. Your business must file a bond or other acceptable security with the Tax Department before it will be registered. The amount of the bond or other acceptable security will be determined by the Tax Department. The minimum amount of bond or other acceptable security is \$50,000. Once registered, motor fuel distributors file monthly tax returns.

**Importing/exporting transporter**

Your business must be registered as an importing/exporting transporter if it transports motor fuel into New York State by barge, pipeline, truck, railroad, or other means for use, distribution, storage, or sale in New York State, or transports motor fuel that is being exported out of New York State.

To apply for registration as an importing/exporting transporter, file Form TP-650, *Application for Registration under Articles 12-A and 13-A*. Your business will be required to file a bond or other acceptable security with the Tax Department before it will be registered. The amount of the bond or other acceptable security is \$2,000. Once registered, importing/exporting transporters file monthly tax reports.

**Terminal operator**

Your business must register as a terminal operator if it maintains or controls a motor fuel storage facility with a capacity of at least 50,000 gallons. To apply for registration as a terminal operator, file Form TP-650, *Application for Registration under Articles 12-A and 13-A*. Your business will be required to file a bond or other acceptable security with the Tax Department before it will be registered. The amount of the bond or other acceptable security is \$10,000. Once registered, terminal operators file monthly inventory reports.

**Distributor of diesel motor fuel**

Your business must register as a distributor of diesel motor fuel if it:

- imports diesel motor fuel into New York State (or has it imported) for use, distribution, storage, or sale within New York State;
- produces, refines, manufactures, or compounds diesel motor fuel in New York State;
- sells diesel motor fuel other than at retail directly into the fuel tank of a motor vehicle; or
- enhances diesel motor fuel in New York State.

To apply for registration as a distributor of diesel motor fuel, file Form TP-650, *Application for Registration under Articles 12-A and 13-A*. Your business may be required to file a bond or other acceptable security with the Tax Department before it will be registered. The amount of the

bond or other acceptable security will be determined by the Tax Department. Once registered, distributors of diesel motor fuel file monthly tax returns.

**Retailer of heating oil only**

Your business may register as a retailer of heating oil only, instead of as a distributor of diesel motor fuel, if it sells unenhanced diesel motor fuel only to consumers exclusively for heating use, or for use directly and exclusively in the production for sale of tangible personal property, gas, electricity, refrigeration, or steam. A retailer of heating oil only may not sell any diesel motor fuel for any use other than heating or production.

To apply for registration as a retailer of heating oil only, file Form TP-650, *Application for Registration under Articles 12-A and 13-A*. Your business may be required to file a bond or other acceptable security with the Tax Department before it will be registered. The amount of the bond or other acceptable security will be determined by the Tax Department. Retailers of heating oil only, once registered, file monthly or quarterly tax returns.

**Distributor of kero-jet fuel only**

If your business is a fixed-base operator that makes no sales of kero-jet fuel other than the retail sale delivered directly into the fuel tank of an airplane for use in that airplane from a fixed and permanent place at an airport in New York State, it may be registered as a distributor of kero-jet fuel only.

To apply for registration as a distributor of kero-jet fuel only, file Form TP-650, *Application for Registration under Articles 12-A and 13-A*. Your business may be required to file a bond or other acceptable security with the Tax Department before it will be registered. The amount of the bond or other acceptable security will be determined by the Tax Department. Distributors of kero-jet fuel only, once registered, file monthly or quarterly tax returns.

**Aviation fuel business**

Generally, your business must register as an aviation fuel business if it imports kero-jet fuel into New York State in the fuel tanks of its aircraft, and it is not otherwise registered as a distributor of diesel motor fuel or kero-jet fuel only. To apply for registration as an aviation fuel business, file Form TP-650, *Application for Registration under Articles 12-A and 13-A*. No bond or other security is required. Once registered, aviation fuel businesses file monthly tax returns.

If your business is an aircraft operator that is not an airline, you may be allowed to file Form PT-351, *Aircraft Fuel Consumption Tax Return*. See Form PT-351 for more information.

**Residual petroleum product business**

Your business must register as a residual petroleum product business under Article 13-A if it:

- imports residual petroleum product (or has it imported) into New York State;

- produces, refines, manufactures, or compounds residual petroleum product within New York State; or
- sells or uses residual petroleum product within New York State, other than the self-use of product which it purchased at retail.

To apply for registration as a residual petroleum product business, file Form TP-650, *Application for Registration under Articles 12-A and 13-A*. Your business may be required to file a bond or other acceptable security with the Tax Department before it will be registered. The amount of the bond or other acceptable security will be determined by the Tax Department. Once registered, residual petroleum product businesses file monthly tax returns.

## **Highway use and fuel use taxes**

If your business operates certain vehicles on the public highways of New York State, it may be subject to the highway use tax (also referred to as the truck mileage tax or TMT) and the fuel use tax (also referred to as the International Fuel Tax Agreement or IFTA).

For additional information applicable to highway use tax and fuel use tax as described in the sections below, see Publication 538, *A Guide to Highway Use Tax and Other New York State Taxes for Carriers*.

### **Highway use tax**

The highway use tax is generally imposed on vehicles with a gross weight of more than 18,000 pounds that travel on the public highways of New York State. (See Publication 538 for a list of excluded and exempt vehicles.) The highway use tax is computed based on the weight of the vehicle and the number of miles it is operated on the public highways of New York State. Miles driven on the toll-paid portion of the New York State Thruway are not subject to the highway use tax.

Carriers are required to obtain a certificate of registration for each vehicle subject to the highway use tax. There are various types of highway use tax certificates of registration that are issued based on the nature of the operations of the vehicle and how quickly the certificates are needed. Certificates of registration can be obtained from the Tax Department or from various permit services bureaus located throughout the country. Use Form TMT-1, *Application for Highway Use and/or Automotive Fuel Carrier Certificate of Registration*, or visit the Tax Department's *Online Tax Center* ([www.nystax.gov](http://www.nystax.gov)) to apply for most highway use tax certificates of registration electronically. Returns must be filed monthly, quarterly, or annually, based on the tax liability of the certificate holder.

### **Fuel use tax**

The fuel use tax is imposed on the operation of qualified motor vehicles in New York State. A *qualified motor vehicle* is a motor vehicle, other than a recreational vehicle, that has two axles and a gross vehicle weight or registered gross vehicle weight of more than 26,000 pounds; or has three or more axles regardless of weight; or is used in combination and the gross vehicle weight of the combination is more than 26,000 pounds.

The fuel use tax is based on the number of gallons of fuel used by a qualified motor vehicle operating on the public highways of New York State, including the toll-paid portion of the New York State Thruway, multiplied by an aggregate rate that consists of a fuel tax component, a sales tax component, and a petroleum business tax component. A credit against the fuel use tax is allowed for fuel that the carrier purchased tax paid in New York State, and placed into the fuel tank of a qualified motor vehicle. The purpose of the fuel use tax is to subject fuel purchased outside New York State and used to operate qualified motor vehicles on the state's public highways to the same taxes as are imposed on fuel purchased in-state. Any excess credits may be refunded.

New York State is a participating member of the **International Fuel Tax Agreement (IFTA)**. The agreement, which is in effect in most jurisdictions (states and Canadian provinces), simplifies the reporting of fuel taxes for interstate and international carriers by allowing a carrier to report to its base jurisdiction the total amount of fuel taxes that it owes to all the various IFTA member jurisdictions.

A business that operates one or more qualified motor vehicles in New York State and in one or more other IFTA jurisdictions must obtain an IFTA license and obtain decals for each vehicle from its base jurisdiction. Use Form IFTA-1, *New York State International Fuel Tax Agreement (IFTA) License Application*, to apply for an IFTA license and decals if your business's base jurisdiction is New York State.

If your business is not required to be licensed under IFTA, and it operates on New York State public highways (including the Thruway) qualified motor vehicles that consume fuel purchased in New York State on which New York taxes have not been paid, your business must file Form MT-903-FUT, *Fuel Use Tax Return*, to report and pay its fuel use tax obligation.

### **Gross receipts tax for furnishing utility and telecommunication services**

Any utility selling or furnishing utility services and any providers of telecommunications services may be subject to tax on the receipts from these services.

If your utility sells or furnishes gas, electricity, steam, water, or refrigeration, and it is subject to the supervision of the Public Service Commission, see Form CT-186-P, *Utility Services Tax Return – Gross Income*, and the instructions for Form CT-186-P.

If your business is selling telecommunications services, whether provided by wires, cables, satellites, fiber-optics, lasers, microwaves, radio waves, similar media, or any combination thereof, see Form CT-186-E, *Telecommunications Tax Return and Utility Services Tax Return*, and its applicable instructions.

If your business sells utility services or telecommunications services and does business in the Metropolitan Commuter Transportation District (MCTD), it must also file and pay the metropolitan transportation business tax surcharge (MTA surcharge) on business done in the MCTD. The MCTD includes New York City (the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, Richmond (Staten Island)), and the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester.

## **Waste tire management fee**

Tire sellers (any business selling tires or selling vehicles with tires) within New York State are required to collect a fee of \$2.50 on each new tire sold within New York State. The fee applies to motor vehicle type tires, including tires for cars, trucks, trailers, farm and other type tractors, motorcycles, all-terrain vehicles, and limited use vehicles. All new tires included with the sale of a new or used vehicle, including spare tires, are subject to the fee.

Sales of the following tires are not subject to the fee: (1) used or recapped tires; (2) mail-order, phone-order, or internet sales where the tires are delivered to the purchaser by the US Postal Service or a common carrier; and (3) tires sold solely for resale provided the subsequent retail sale within New York State is subject to the fee.

Tire sellers must file returns on a quarterly basis with the Tax Department and remit \$2.25 for each tire sold during the quarter. This allows the tire seller to retain 25 cents for each tire sold to help defray administrative costs.

For more information, see Form MT-170-MN, *Waste Tire Management Fee Quarterly Return*, Form MT-171, *Waste Tire Management Fee Exempt Purchase Certificate*, and TSB-M-04(2)M, *Waste Tire Management Fee Changes for 2004*.

## **VII. Purchasing or acquiring a business or its assets – CAUTION**

### **Sales tax information**

**If you are purchasing or otherwise acquiring some or all of the business assets of an existing business, other than in the ordinary course of the seller's business, you may be held personally liable for any sales taxes determined to be due from the seller.** You may be held liable for the amount of the seller's unpaid sales taxes, up to the selling price or fair market value of the assets purchased or acquired, whichever is greater.

This applies whether the assets you are acquiring are tangible personal property, intangible property, or real property.

The sale, transfer, or assignment of business assets in whole or in part other than in the ordinary course of business by a person required to collect tax

and pay over the same to the Tax Department is called a *bulk sale transaction*.

As the purchaser, transferee, or assignee (hereinafter, simply referred to as the purchaser) in a bulk sale transaction, you will not be held liable for the seller's unpaid sales taxes if you comply with the requirements listed below.

**1. Notify the Tax Department-** You must notify the Tax Department of the pending bulk sale transaction **at least 10 days before paying for or taking possession of any business assets, whichever occurs first**, by filing Form AU-196.10, *Notification of Sale, Transfer or Assignment in Bulk*. You must send Form AU-196.10 by registered mail to the address given on the form. While the seller is supposed to advise the purchaser of this notification requirement, the failure of the seller to give this notification does not relieve the purchaser of liability for the seller's unpaid sales taxes. When the 10<sup>th</sup> day falls on a Saturday, Sunday or legal holiday in New York, notice will be timely if given on the next succeeding day which is not a Saturday, Sunday or legal holiday in New York.

**2. Withhold consideration payable to the seller until authorized by the Tax Department-** Within 5 business days of receiving Form AU-196.10, the Tax Department will advise you if it is possible that the seller has any unpaid sales taxes. If the seller has unpaid sales taxes or is selected for additional review or audit, the Tax Department will send you Form AU-196.2, *Notice of Claim to Purchaser*, which will advise you not to release any consideration to the seller until authorized by the Tax Department. If the seller does not have any unpaid sales taxes and if an additional review or audit is not necessary, the Tax Department will send you Form AU-197.1, *Purchaser's and/or Escrow Agent's Release-Bulk Sale*, which allows you to turn over any consideration to the seller.

If the Tax Department does not issue Form AU-196.2 within 5 business days of the date of receipt of a properly completed Form AU-196.10 you filed on time, you cannot be held liable for any of the seller's unpaid sales taxes **unless** there are outstanding warrants or judgments against the seller for unpaid sales taxes.

For purposes of the Tax Department's obligation to respond within 5 business days, the date of receipt of Form AU-196.10 by the Tax Department will be the date it was actually delivered to the Bulk Sales Unit of the Audit Division, but no earlier than 10 days before the later of the scheduled date of sale or the actual date of sale. The actual date of sale is deemed to be the earlier of the date of payment or the date the purchaser takes possession of the assets acquired.

**If you receive Form AU-197.1** – If you receive Form AU-197.1, you may pay the seller the full purchase price. The Tax Department will not hold you

liable for any unpaid sales taxes, even if there are outstanding warrants or judgments.

**If you receive Form AU-196.2** – If you receive Form AU-196.2, you will be advised **not** to pay the seller until the Tax Department completes its review of the seller’s sales tax account. Within 90 days of the receipt of Form AU-196.10, the Tax Department must notify you (and the seller) of the actual amount of sales taxes due from the seller for which you can be held liable. Upon receipt of Form AU-196.2, you may wish to consult a tax practitioner about the best course of action to take.

For more information on bulk sales transactions, see TSB-M-83(6)S, *Guidelines for Bulk Sales Transactions*.

If you have any questions about the bulk sale requirements, call (518) 457-4164 from 8:00 a.m. to 4:00 p.m. (eastern time), Monday through Friday. Please have either the assigned bulk sales case number or the name and the sales tax identification number of the seller or the purchaser available when you call.

In addition to the above bulk sale transaction notification requirements, if you intend to operate a business, you need to determine your registration requirements. If you will be making taxable sales or issuing or accepting certain exemption certificates, file Form DTF-17, *Application to Register for a Sales Tax Certificate of Authority*. This form must be completed and sent to the address listed on the form at least 20 days before making taxable sales or issuing or accepting exemption certificates, including resale certificates used for purchasing inventory. If you do not register on time, you may be subject to substantial penalties. For more information, see *Sales tax registration* on page 15 and Publication 750, *A Guide to Sales Tax in New York State*.

**In addition to your obligations and requirements with respect to sales taxes accrued and determined to be due to the Tax Department from the seller, you are also responsible for paying the sales tax due, if any, on the purchase of any tangible personal property purchased or otherwise acquired in a bulk sale transaction.** Sales tax is not imposed on the sale of real property or intangible assets, such as goodwill.

**Bulk sale transactions  
(examples)**

**Example 1:** Corporation A, a person required to collect sales tax, sells its business assets to Corporation B. The sale by Corporation A is a bulk sale transaction.

**Example 2:** Corporation A, a person required to collect sales tax, transfers all of its business assets to Corporation B in exchange for stock in Corporation B. The transfer of Corporation A’s assets to Corporation B is a bulk sale transaction.

**Example 3:** Corporation A purchases all the issued and outstanding stock of Corporation B, a person required to collect sales tax. Corporation A and Corporation B will continue to exist as separate legal entities. Since the business assets of Corporation B have not been transferred in connection with the sale of its stock, this is **not** a bulk sale transaction.

**Example 4:** Corporation A, a person required to collect sales tax, sells its entire inventory, which is purchased by Corporation B for resale. The sale by Corporation A is a bulk sale transaction.

**Example 5:** Mr. Smith, a person required to collect sales tax, makes a gift of all of his business assets to another person. This transfer by Mr. Smith is a bulk sale transaction.

## Real estate transfer tax information

If you are acquiring a business that has an interest in real property, such as a deed or a lease, the transaction may be subject to the real estate transfer tax. In addition, the tax applies (1) when a person or group of persons acting in concert **acquires** a controlling interest in a partnership, corporation, or other entity with an interest in real property, or (2) when a person or group of persons acting in concert **transfers** a controlling interest in a partnership, corporation, or other entity with an interest in real property.

**Caution:** The tax may apply when the purchaser acquires a minority interest that is part of a larger transaction or when the seller transfers a minority interest that is part of a larger transaction.

*Controlling interest* means (1) in the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of such corporation or fifty percent or more of the capital, profits, or beneficial interest in such voting stock of such corporation, and (2) in the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

The seller of the real property is responsible for paying the tax. However, if the seller fails to pay the tax or is exempt, the purchaser has the duty to pay the tax. For more information, see Form TP-584, *Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax*, and the instructions for Form TP-584.

**Note:** If you are purchasing a business that owns an interest in real property from a nonresident individual, estate, or trust, then the transferor/seller may be required to complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, and pay the estimated personal income tax due, if any, **before** you may have the deed recorded. For more information, see the instructions for Form IT-2663.

## Licenses or registrations

Any license or registration that is required for any of the miscellaneous taxes (see *Miscellaneous taxes and fees* starting on page 17) may **not** be transferred to you or your business from another individual or business, even when you purchase an existing business. You must complete new registration forms for your business and file them with the Tax Department. For additional information on license or registration requirements, contact the New York State Tax Department Registration and Bond Unit at (518) 457-1407.

## VIII. Business incentives

New York State offers a number of significant tax incentives designed to enhance economic development, stimulate capital investment, and encourage revitalization of distressed areas. Several initiatives have been enacted or enhanced over the past few years. These include tax credits for emerging technology companies, farmers, and the film and television production industry. Additionally, several tax credits are available to encourage business owners to promote environmental issues. These credits include the green buildings credit, brownfield credits, the conservation easement tax credit, alternative fuels credit, fuel cell electric generating equipment credit, and the biofuel production credit.

The broad range of tax credits available to businesses underscores the state's commitment to attract and foster growth in the business community. These credits provide significant tax relief to businesses to encourage job creation and to ensure competitiveness in a global marketplace. For additional information on New York State tax credits, visit the Tax Department Web site ([www.nystax.gov](http://www.nystax.gov)) or see Publication 99-B, *General Information on New York State and New York City Income Tax Credits for Businesses*.

In addition, New York allows special tax incentives under the Empire Zone (EZ) Program for certified empire zone businesses. These incentives include a wage tax credit, an investment tax credit, an employment incentive tax credit, and a capital tax credit. For further details on EZ program incentives, see Publication 26, *A Guide to Business Tax and Personal Income Tax Credits Within Empire Zones*.

To qualify for empire zone benefits, a business must be located in an empire zone and be certified by Empire State Development. Additionally, taxpayers may also claim a refund or credit of sales tax paid for the purchase of certain building materials used in an EZ. For information on sales tax incentives in EZs, see Publication 30, *A Guide to Sales and Use Tax Incentives Within Empire Zones*, and Publication 718-EZ, *Empire Zones Sales and Use Tax Refund Rates*.

Enhanced tax incentives for qualified businesses in empire zones that are certified as qualified empire zone enterprises (QEZE) are also available. These incentives include a credit for real property taxes and a tax reduction credit. In addition, there are sales and use tax exemptions for businesses that meet the QEZE requirements and are certified as QEZE by the New York State Tax Department.

For more information about the EZ program, contact the Empire State Development office at 1 800 782-8369 or visit the Empire State Development Web site ([www.empire.state.ny.us](http://www.empire.state.ny.us)).

For more information regarding the QEZE program, see:

- TSB-M-02(5)S, *Qualified Empire Zone Enterprise (QEZE) Exemptions (Articles 28 and 29)*,
- TSB-M-05(16)S, *Qualified Empire Zone Enterprise (QEZE) Exemptions from Sales and Compensating Use Tax*, and
- TSB-M-06(1)C, (2)I, *Qualified Empire Zone Enterprise (QEZE) Tax Credits*.

## **IX. Additional information**

### **Record keeping for small businesses**

As the owner of a business, you are required to keep records that enable you to prepare complete and accurate tax returns for that business. You must also keep documentation such as canceled checks, paid invoices, or both, to verify the records of your business.

Generally, you may retain any required records in either hard-copy or electronic format (or both). All such records should be maintained in a manner so that one period may be compared with another.

### **Sales and use tax vendors**

If your business must register as a vendor for sales and use tax purposes, or if your business has voluntarily registered, it must keep detailed records of all sales by jurisdiction. Your business must also maintain a method of associating an exempt sale to a particular purchaser with the exemption certificate your business has on file for that sale or purchaser. If your business issues exemption certificates when it makes purchases, it must maintain records of these purchases, substantiating exempt use.

For specific record keeping requirements for sales and use tax vendors, see Publication 750, *A Guide to Sales Tax in New York State*. To look up sales and use tax rates by jurisdiction online, visit the Tax Department Web site ([www.nystax.gov](http://www.nystax.gov)) and access the *Online Tax Center*.

**Tax year**

Generally, income and corporation franchise taxes are based on a one-year period called a tax year. The tax year for your business may be a *calendar year* beginning January 1 and ending December 31, or it may be a *fiscal year* consisting of any 12 consecutive months. For New York State income tax purposes, the New York tax year for your business is the same as that established for federal income tax purposes. The tax year is established for federal tax purposes when you file the first federal tax return for your business. The business must continue to use this tax year unless it has received approval from the IRS to change the tax year. If you are a sole proprietor, include your business income on your federal and New York State personal income tax returns.

Please note, however, that the annual reporting period for sales tax purposes runs from each March 1 through the last day of the following February, which may differ from the *tax year* of a business as described above.

**Accounting methods for income and corporate franchise taxes**

For New York income tax and corporate franchise tax purposes, your business must use the same method of accounting as your business used for federal income tax purposes. The accounting method for your business is established for federal tax purposes when you file the first federal income tax return for your business. You must continue to use this accounting method for your business unless you have received approval from the IRS to change it.

Your business may use any of the following accounting methods:

- cash method;
- accrual method;
- special methods of accounting for certain items of income and expenses;  
or
- combination method, using elements of both the cash and accrual methods.

An accounting method used by a taxpayer will generally be acceptable if the method is consistently applied, in accordance with generally accepted accounting principles, and clearly reflects the taxpayer's income. If you operate more than one business, you may use different accounting methods for each. You must keep complete records and separate books for each business.

If you are using the cash method for your business, report income when the money is actually or constructively received and report expenses when the bills are actually paid. If you are using the accrual method for your business, report income when it is earned (whether or not it has been

received) and report expenses when they are incurred (regardless of when they are paid).

For more information on accounting methods, visit the IRS Web site ([www.irs.gov](http://www.irs.gov)) and refer to federal Publication 538, *Accounting Periods and Methods*.

### **Accounting methods for sales and use tax**

Generally, sales and use taxes are remitted to New York State with the sales tax return filed for the period in which the sales occur, without regard to when payment is received (the accrual method). However, certain lumber dealers and other materialmen may elect to remit sales tax on the cash basis (reporting the sale in the period that they actually receive payment for certain taxable sales). For more information, see Form ST-112, *Annual Application for a Materialman to Remit Sales Tax Under the Pay-When-Paid Option*, and TSB-M-99(2)S, *Materialmen - Pay When Paid*.

### **Bookkeeping systems**

Your business may use one of two bookkeeping systems: single-entry or double-entry. The single-entry system is easier to keep; the double-entry system, although more complex, assures better accuracy and control.

In double-entry bookkeeping, your business keeps journals and ledgers. Transactions are entered in a journal and then, at certain times, summary totals are posted to ledger accounts showing income, expenses, assets, liabilities, and net worth. The system is self-balancing because, generally, each transaction is shown as a debit entry in one account and a credit entry in another. Total debits must always equal total credits; if they don't, it is evident that an error has been made. At the end of an accounting period, your business will be able to prepare a profit and loss statement reflecting current operations, and a balance sheet showing the overall financial position of the business.

Single-entry bookkeeping concentrates on the profit and loss statement and not the balance sheet. It is a partial system that records the flow of income and expenses using a daily summary of cash receipts, a monthly summary of receipts, and a monthly check disbursements journal.

Federal Publication 334, *Tax Guide for Small Business*, and federal Publication 583, *Starting a Business and Keeping Records*, will provide you with more detailed information. Federal publications are available through the IRS Web site ([www.irs.gov](http://www.irs.gov)). In addition, office supply stores sell a variety of complete bookkeeping systems, and also many record-keeping forms and other materials that may help you. You must determine what kind of system will be most comfortable for you and best suited to your business needs. You may wish to obtain professional assistance in establishing such a system for your business.

## Privacy and confidentiality

The Tax Law contains strict secrecy provisions to protect the confidentiality of tax returns and tax return information. Consequently, you must give specific written authorization to a practitioner, paid preparer, or other representative before he or she will be given access to the confidential records of your business or be allowed to represent your business before the Tax Department or the Division of Tax Appeals. There are various levels of authorization your business can give.

## Third-party designee

Your business can authorize any person (third-party designee) you choose to discuss certain current year tax returns with the New York State Tax Department. To authorize a third-party designee, check the **Yes** box in the *Third-party designee* area of your tax return, if applicable, and enter the information requested.

If you mark the **Yes** box, you are authorizing the Tax Department to discuss with your designee any questions that arise during the processing of the return for your business. Your business is also authorizing the designee to:

- give the Tax Department any information that is missing from the return;
- call the Tax Department for information about the processing of the return or the status of a refund or payment(s); and
- respond to certain Tax Department notices that your business shares with the designee about math errors, offsets, and return preparation. The Tax Department will **not** send notices to the designee.

Your business is not authorizing the designee to receive any refund check, bind your business to anything (including additional tax liability), or otherwise represent your business before the Tax Department. If your business wants the designee to perform those services for you, your business must file Form POA-1, *Power of Attorney*.

## Power of attorney

A power of attorney is evidence that a practitioner or other person may act on your behalf. The power of attorney must contain explicit authorization for your representative to act for your business, and must be properly completed and signed.

The Tax Department prefers that practitioners use Form POA-1, *Power of Attorney* (and Form ET-14, *Estate Tax Power of Attorney*, for estate tax), but will accept other forms if they contain all the information as required on Form POA-1 or ET-14. Form POA-1 may be used for New York State tax matters, New York City tax matters, or both.

## Tax information authorization

Your business can authorize the Tax Department to release specific items of tax information to your representative (or other person) without a power of attorney. However, the representative may not act on behalf of your

business. File Form DTF-280, *Tax Information Authorization*, to allow your representative to communicate with the Tax Department, verbally or in writing, regarding specific confidential tax information.

## Permits and licenses

As a prospective owner of a new business or expanding business, you need to be aware of permits and licenses that may be required for your business by New York State. The Governor's Office of Regulatory Reform (GORR) can assist you by identifying these permits and licenses. Call GORR at 1 800 342-3464 (from NY, CT, VT, NH, MA, NJ, PA, and Canada), (518) 474-8275 (from all other areas) or visit their Web site ([www.gorr.state.ny.us/gorr](http://www.gorr.state.ny.us/gorr) or [www.nys-permits.org](http://www.nys-permits.org)).

Your business may also be subject to local permits and licenses in the county, city, town, or village where your business is located and where it will be transacting business. You should contact these local authorities before you begin your business. Contact numbers for New York City can be found starting on page 43 of this guide.

## Change in your business information

The Tax Department maintains and updates the various tax records associated with each business in New York State.

Your business must notify the Tax Department if at any time during the course of your business venture, your business changes its:

- name;
- employer identification number (EIN);
- mailing address;
- location address;
- telephone number or fax number; or
- owner, officer, or responsible person information, etc.

If you are **only** reporting address changes, you may use Form DTF-96, *Report of Address Change for Business Tax Accounts*. If you are reporting a change to any of the other business information listed above use Form DTF-95, *Business Tax Account Update*. If your business is reporting an address change **and** a change to any of the other business information listed above at the same time, use Form DTF-95. This procedure allows us to properly update our records for your business and, if applicable for sales tax purposes, send you a revised *Certificate of Authority* for your business.

If your business is required to collect sales and use taxes and you change your organizational structure (for example, sole proprietorship to corporation), your business must register as a new business by completing a new Form DTF-17, *Application to Register for a Sales tax Certificate of Authority*. Your old business must also file a final sales tax return and surrender its sales tax *Certificate of Authority*. For more information on filing a final sales tax return, see *Terminating business* on page 17.

## X. New York State tax forms and publications for new businesses

As your business grows, you may require forms, publications, and reports not included in this publication. Please review the list of selected forms and publications below. For a complete list of forms and publications, visit the Tax Department Web site ([www.nystax.gov](http://www.nystax.gov)) or call the Business Tax Information Center (see page 41). The forms and publications listed below may be downloaded from our Web site. In addition, the Tax Department provides an automated forms ordering system. If you have access to a fax machine, you may order many forms and other documents from a touch-tone telephone, 24 hours a day, 7 days a week by calling toll free 1 800 748-3676. You may also request most of these documents listed below by calling toll free 1 800 462-8100. From areas outside the U.S. and outside Canada, call (518) 485-6800.

Title (or description) by category	Form/Pub number	Title (or description) by category	Form/Pub number
<b>General business tax forms and publications</b>		<b>Personal income tax (continued)</b>	
Business Tax Account Update .....	DTF-95	Alternative Fuels Credit.....	IT-253
Report of Address Change for Business Tax Accounts .....	DTF-96	Claim for Fuel Cell Electric Generating Equipment Credit.....	IT-259
Power of Attorney.....	POA-1	Claim for EZ Wage Tax Credit.....	IT-601
Estate Tax Power of Attorney.....	ET-14	Claim for ZEA Wage Tax Credit.....	IT-601.1
Tax Information Authorization .....	DTF-280	Claim for EZ Capital Tax Credit .....	IT-602
New York Tax Status of Limited Liability Companies and Limited Liability Partnerships .....	Pub. 16	Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit .....	IT-603
New York Tax Treatment of S Corporations and Their Shareholders.....	Pub. 35	Claim for QEZE Tax Reduction Credit .....	IT-604
A Guide to Business Tax and Personal Income Tax Credits Within Empire Zones .....	Pub. 26	Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit for the Financial Services Industry.....	IT-605
General Information on New York State and New York City Income Tax Credits for Businesses .....	Pub. 99-B	Claim for QEZE Credit for Real Property Taxes.....	IT-606
<b>Personal income tax</b>		Claim for Brownfield Redevelopment Tax Credit.....	IT-611
Resident Income Tax Return .....	IT-201	Claim for Remediated Brownfield Credit for Real Property Taxes.....	IT-612
Nonresident and Part-Year Resident Income Tax Return .....	IT-203	Claim for Environmental Remediation Insurance Credit.....	IT-613
Change of City Resident Status .....	IT-360.1	The NYS Tax Audit – Your Rights and Responsibilities.....	Pub. 130
City of Yonkers Nonresident Earnings Tax Return .....	Y-203	General Information on New York State and New York City Income Tax Credits for Individuals .....	Pub. 99-IND
Estimated Income Tax Payment Voucher for Individuals.....	IT-2105	Should You be Paying Estimated Tax? .....	Pub. 94
Report of Estimated Tax for Nonresident Individual Partners and Shareholders .....	IT-2658	<b>Corporation tax</b>	
Report of Estimated Tax for Corporate Partners.....	CT-2658	General Business Corporation Franchise Tax Returns and Instructions (booklet).....	CT-3-P/CT-4-P
Nonresident Real Property Estimated Income Tax Payment Form.....	IT-2663	New York S Corporation Franchise Tax Returns and Instructions (booklet).....	CT-3-S-P
Partnership Return .....	IT-204	Election by a Federal S Corporation to be Treated as a New York S Corporation .....	CT-6
City of Yonkers Nonresident Partner Allocation (with instructions).....	Y-204	Claim for Alternative Fuels Credit.....	CT-40
Limited Liability Company/Partnership Filing Fee Payment Form (with instructions).....	IT-204-LL	Claim for Credit for Employment of Persons with Disabilities .....	CT-41
Claim for Green Building Credit .....	DTF-630	Claim for Special Additional Mortgage Recording Tax Credit (with instructions).....	CT-43
Claim for Conservation Easement Tax Credit .....	IT-242		
Claim for Biofuel Production Credit.....	IT-243		

Title (or description) by category	Form/Pub number
<b>Corporation tax (continued)</b>	
Claim for Investment Tax Credit for the Financial Services Industry.....	CT-44
Claim for Investment Tax Credit (Includes Employment Incentive Credit.....	CT-46
Claim for Farmers' School Tax Credit.....	CT-47
Transportation and Transmission Corporation Franchise Tax Returns and Instructions (booklet).....	CT-183-P/CT-184-P
Telecommunications Tax Return and Utility Services Tax Return.....	CT-186-E
Utility Services Tax Return – Gross Income.....	CT-186-P
Election or Revocation of Election by Railroad and Trucking Corporations To Be Taxable Under Article 9 (with instructions).....	CT-187
Foreign Corporation License Fee Return.....	CT-240
Claim for Conservation Easement Tax Credit.....	CT-242
Claim for Biofuel Production Credit.....	CT-243
Maintenance Fee and Activities Return For a Foreign Corporation Disclaiming Tax Liability.....	CT-245
Claim for Fuel Cell Electric Generating Equipment Credit.....	CT-259
Estimated Tax for Corporations.....	CT-400
Claim for EZ Wage Tax Credit.....	CT-601
Claim for ZEA Wage Tax Credit.....	CT-601.1
Claim for EZ Capital Tax Credit.....	CT-602
Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit.....	CT-603
Claim for QEZE Credit for Real Property Taxes and QEZE Tax Reduction Credit.....	CT-604
Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit for the Financial Services Industry.....	CT-605
Claim for Brownfield Redevelopment Tax Credit.....	CT-611
Claim for Remediated Brownfield Credit for Real Property Taxes.....	CT-612
Claim for Environmental Remediation Insurance Credit.....	CT-613
Claim for QETC Employment Credit.....	DTF-621
Claim for QETC Capital Tax Credit.....	DTF-622
Claim for Green Building Credit.....	DTF-630
Authorization for Foreign Corporations to Do Business in New York.....	Pub. 24
General Information on the Issuer's Allocation Percentage.....	Pub. 111
NAICS Codes for Principal Business Activity For New York State Tax Purposes.....	Pub. 910

Title (or description) by category	Form/Pub number
<b>Unemployment insurance, wage reporting, and withholding tax</b>	
New York State Employer Registration for Unemployment Insurance, Withholding and Wage Reporting.....	NYS-100
New York State, City of New York, and City of Yonkers Certificate of Nonresidence and Allocation of Withholding Tax.....	IT-2104.1
Certificate of Exemption from Withholding.....	IT-2104-E
New York State Certificate of Exemption from Withholding (Native Americans).....	IT-2104-IND
Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return.....	NYS-45
Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return- Attachment Amended Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return.....	NYS-45-ATT
Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax.....	Pub. NYS-50
New York State, City of New York, and City of Yonkers Withholding Tables and Methods.....	Pub. NYS-50-T
Reporting Form NYS-1 Information on Magnetic Media.....	Pub. 66
Magnetic Media Reporting of Quarterly Combined Wage and Withholding Tax Information.....	Pub. 69
Reporting Form NYS-45 Information on Magnetic Media.....	Pub. 72
Specifications for Reproduction of New York State Employment Tax Forms.....	Pub. 83
Magnetic Media Reporting of Quarterly Wage and Withholding Tax Information Based on Federal Formats.....	Pub. 911
<b>Sales and use tax</b>	
Application to Register for a Sales Tax Certificate of Authority.....	DTF-17
Schedule of Business Locations for a Consolidated Filer.....	DTF-17-ATT
Application for New Jersey/New York Simplified Sales and Use Tax Reporting.....	DTF-24
Application for Connecticut/New York State Simplified Sales and Use Tax Reporting.....	DTF-24.1
Application for an Exempt Organization Certificate.....	ST-119.2
Business Purchaser's Report of Sales and Use Tax.....	ST-130
Individual Purchaser's Annual Report of Sales and Use Tax.....	ST-140
Individual Purchaser's Periodic Report of Sales and Use Tax.....	ST-141
Notification of Sale, Transfer, or Assignment in Bulk.....	AU-196.10

**Publication 20 (10/07)**

Title (or description) by category	Form/Pub number
<b>Sales and use tax (continued)</b>	
Notice to Prospective Purchasers of a Business or Business Assets.....	TP-153
A Guide to Sales Tax for the Film Industry.....	Pub. 28
A Guide to Sales and Use Tax Incentives Within Empire Zones.....	Pub. 30
Sales Tax Advertising Issues.....	Pub. 34
A Guide to New York State Reciprocal Credits for Sales Taxes Paid to Other States.....	Pub. 39
A Guide to Handling Coupons and Food Stamps For Retail Food Stores.....	Pub. 79
New York State Sales and Use Tax Rates by Jurisdiction.....	Pub. 718
A Guide to Sales Tax in New York State.....	Pub. 750
Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department: Questions and Answers.....	Pub. 774
Chart for Prepayment of Sales Tax on Diesel Motor Fuel.....	Pub. 787
Chart for Prepayment of Sales Tax on Motor Fuel....	Pub. 790
Taxable Status of Medical Equipment and Supplies, Prosthetic Devices and Related Items.....	Pub. 822
Collection and Reporting Instructions for Printers and Mailers.....	Pub. 831
A Guide to Sales Tax for Drugstores and Pharmacies.....	Pub. 840
New York State and Local Sales and Use Tax Quick Reference Guide.....	Pub. 850
Sales Tax Information for: Manufacturers, Processors, Generators, Assemblers, Refiners, Miners and Extractors, and Other Producers of Goods and Merchandise.....	Pub. 852
Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property.....	Pub. 862
Taxable and Exempt Foods and Beverages Sold at Retail Food Markets and Similar Establishments ...	Pub. 880
<b>Alcoholic beverage tax</b>	
Application for Registration as a Distributor of Alcoholic Beverages.....	TP-215
Financial Statement of Distributors of Alcoholic Beverages.....	TP-229
Information on the Alcoholic Beverages Tax.....	Pub. 570
Alcoholic Beverages Tax Rates.....	Pub. 571
<b>Petroleum products business taxes</b>	
Application for Registration under Article 12-A and 13-A.....	TP-650
Fuel Tax Rates.....	Pub. 908

Title (or description) by category	Form/Pub number
<b>Highway use tax and fuel use tax</b>	
New York State International Fuel Tax Agreement (IFTA) License Application (with instructions) .....	IFTA-1
Application for Highway Use Tax and/or Automotive Fuel Carrier Certificate of Registration (with instructions).....	TMT-1
Fuel Use Tax Return.....	MT-903-FUT
International Fuel Tax Agreement (IFTA) A Guide for New York State Motor Carriers.....	Pub. 536
A Guide to Highway Use Tax and Other New York State Taxes for Carriers.....	Pub. 538
Chart for Prepayment of Sales Tax on Diesel Motor Fuel.....	Pub. 787
Chart for Prepayment of Sales Tax on Motor Fuel....	Pub. 790
<b>Cigarette and tobacco products tax</b>	
Application for Registration as a Chain Store.....	CG-80
Application for License as a Cigarette Agent or Agent/Wholesaler.....	CG-100-A
Checklist for Applications CG-100-A, CG-100-W and CG-100-V.....	CG-100-C
Application for License as a Wholesale Cigarette Dealer Who Only Operates Vending Machines.....	CG-100-V
Application for License as a Wholesale Cigarette Dealer Other Than Those Who Only Operate Vending Machines.....	CG-100-W
Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes or Tobacco Products.....	DTF-716
Renewal Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes or Tobacco Products.....	DTF-719-MN
Application for License as a Wholesale Dealer of Tobacco Products or an Appointment as a Distributor of Tobacco Products.....	MT-202
Certificate of Prepayment of Sales Tax on Cigarettes (with instructions).....	ST-133
Minimum Price List for Cigarettes.....	Pub. 508
Minimum Wholesale and Retail Cigarette Prices.....	Pub. 509
<b>Real estate transfer tax</b>	
Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax.....	TP-584
Nonresident Real Property Estimated Income Tax Payment Form.....	IT-2663
<b>Waste tire management fee</b>	
Waste Tire Management Fee Quarterly Return.....	MT-170
Waste Tire Management Fee Exempt Purchase Certificate.....	MT-171

## XI. New York State assistance

### Department of Taxation and Finance

Visit our Web site ([www.nystax.gov](http://www.nystax.gov)) and access the *Online Tax Center* or *Service Center for Businesses*.

The *Service Center for Businesses* provides the following direct links:

- *Corporation Tax*
- *Sales Tax*
- *Withholding Tax*
- *Other Taxes*
- *LLC/LLP/Partnership*
- *Tax Calendar*
- *Empire Zones Program Information*
- *NYS Bills/Laws*
- *Taxpayer Bill of Rights*
- *Electronic Services*
- *IFTA E-file*
- *OSCAR*
- *Recent Additions*
- *Find Answers*
- *Procurement Opportunities*
- *Contact Us*
- *Outreach Events*
- *Related Links*
- *Starting and Growing a Business*
- *Ending a Business*
- *Small Business Reports*
- *NYLOVESMALLBIZ*

### Business Tax Information Center

If you are calling from outside the US and Canada:  
(518) 485-6800

If you are calling from the US or Canada:

- **Corporation tax** – 1 888 698-2908
- **Corporation dissolution** – 1 800 327-9688
- **Sales tax** – 1 800 698-2909
- **Withholding tax** – 1 877 698-2910

- **Miscellaneous business tax information**  
1 800 972-1233
- **Registration and Bond Unit**  
Information applicable to licenses and registration for cigarettes and tobacco products  
(518) 457-1407
- **Mortgage tax and transfer tax**  
1 888 698-2914

### Personal Income Tax Information Center

For information on filing New York State income tax returns call 1 800 225-5829. From areas outside the U.S. and Canada (518) 485-6800.

### Telecommunications device for the deaf (TDD)

1 800 634- 2110 (or call the New York State relay service by dialing 771 and give the operator one of the above phone numbers).

### Bulk Sales Unit

Important sales tax information for those purchasing or acquiring a business or the assets of a business.  
(518) 457-4164

### Forms and publications

To order Tax Department forms and publications:  
1 800 462-8100

### Fax-on-demand forms

An automated forms ordering system:  
1 800 748-3676

### New Hire Reporting

Visit the New York New Hire Web site ([www.nynewhire.com](http://www.nynewhire.com)), or call (518) 452-9814 ext. 3143.

### **Department of State**

Provides information on forming corporations, and licensing and registration requirements for various types of businesses. The Department of State also provides information to foreign corporations who want to be authorized to do business in New York State.

Visit their Web site ([www.dos.state.ny.us](http://www.dos.state.ny.us)) or call:

#### **Division of Corporations**

(518) 473-2492

### **State Liquor Authority**

Provides information and application forms for permits and licenses to distribute any alcoholic beverages.

Visit their site ([www.abc.state.ny.us](http://www.abc.state.ny.us)) or call:

Albany	(518) 474-3114
Buffalo	(716) 847-3035
New York City	(212) 961-8385
Syracuse	(315) 428-4198

### **Department of Labor**

Contact the Department of Labor for information regarding unemployment insurance. Visit their Web site ([www.labor.state.ny.us](http://www.labor.state.ny.us)) or call:

Toll free 1 888 899-8810

#### **New employer registration**

(518) 485-8589

#### **Employer liabilities**

(518) 457-2635

### **New York State Insurance Fund**

Contact the State Insurance Fund for information regarding workers' compensation and disability insurance. Visit their Web site ([www.nysif.com](http://www.nysif.com)) or call 1 888-875-5790. If you are calling from outside the US and Canada: (518) 437-5220.

### **Governor's Office of Regulatory Reform**

Provides assistance identifying permits and licenses that may be required by New York State. Visit their Web site ([www.gorr.state.ny.us](http://www.gorr.state.ny.us)).

### **New York State Online Permit Assistance and Licensing (O.P.A.L.)**

If you are starting a new business or expanding your current business, this site will help you find the New York State business permits you may need. Visit their Web site ([www.nys-permits.org](http://www.nys-permits.org)) or call:

#### **Permits and licenses**

1 800 342-3464 (from NY, CT, VT, NH, MA, NJ, PA, and Canada only)

(518) 474-8275 (from all other areas)

### **Empire State Development**

Contact Empire State Development for information regarding business opportunities and tax and financial incentives in New York State. Visit their Web site ([www.empire.state.ny.us](http://www.empire.state.ny.us)) or call:

#### **Empire State Development Zone office**

1 800 STATE NY or 1 800 782-8369

### **Department of Health**

Contact the Department of Health for information regarding cigarette and tobacco sales requirements and restrictions. Visit their Web site ([www.health.state.ny.us](http://www.health.state.ny.us)) or call:

#### **Tobacco Control Unit**

(518) 474-1515

#### **Center for Environmental Health**

(518) 402-7600

## **XII. New York City (NYC) assistance**

### **General information**

Visit New York City's official Web site ([www.nyc.gov](http://www.nyc.gov)) or call New York City's information number for **all** New York City agencies and services.

Dial 311 from within the City or call (212) NEW YORK (639-9675) if you are outside of the five boroughs.

TTY service is also available by dialing (212) 504-4115.

### **Department of Finance**

Administers the general corporation and unincorporated business taxes (including partnerships and limited liability companies) and excise taxes. Assesses and collects real property taxes on all properties (residential and commercial) in the five boroughs.

For information on all Department of Finance functions, legal rulings, property tax exemptions and applications (NYC residents only), look-up for personal property information and payments, etc., visit their Web site ([www.nyc.gov/finance](http://www.nyc.gov/finance)).

### **CityTax Dial**

Recorded information for touch-tone callers is available 24 hours a day, 7 days a week: (212) 504-4034

### **NYC Tax Forms**

For the most current versions of tax return forms for all NYC Finance administered business taxes, visit their Web site ([www.nyc.gov/finance](http://www.nyc.gov/finance)).

### **Tax Fax Service**

NYC tax forms delivered directly to your fax machine or computer fax – 24 hours a day, 7 days a week: (212) 504-4038.

### **NYC Customer Assistance**

59 Maiden Lane – 15<sup>th</sup> Floor  
New York, NY 10038

Business tax 212 504-4036 9am – 5pm  
Property 212 504-4080 8am – 5:30pm

### **NYC Department of Health**

Issues permits pertaining to food-related licenses including food establishments and mobile vendors.

Visit their Web site ([www.nyc.gov/html/doh](http://www.nyc.gov/html/doh)).

For technical assistance and applications for permits relating to animals (Bureau for Veterinary Public Health), water (Bureau of Public Health Engineering), or radiation producing equipment or radioactive materials (Bureau of Radiological Health) contact the following:

#### **Bureau for Veterinary Public Health Services**

(212) 676-2120

#### **Bureau of Public Health Engineering**

(212) 676-1520

#### **Bureau of Radiological Health**

(212) 676-1562

## **XIII. Federal assistance**

### **Internal Revenue Service (IRS)**

Visit their Web site ([www.irs.gov](http://www.irs.gov)) or call:

**Forms Line** 1 800 829-3676

#### **Business and Specialty Tax Line**

1 800 829-4933

TDD service is available at 1 800 829-4059

### **U.S. Citizenship and Immigration Services (USCIS)**

For general information, visit their Web site ([www.uscis.gov](http://www.uscis.gov)) or call toll free

1 800 375-5283.

TDD service is available at 1 800 767-1833

#### **Office of Business Liaison**

1 800 357-2099

#### **USCIS Forms Request Line**

1 800 870-3676

### **Alcohol and Tobacco Tax and Trade Bureau**

Visit their Web site ([www.ttb.gov](http://www.ttb.gov)) or call toll free 1 877 882-3277

### **Federal Bureau of Alcohol, Tobacco, Firearms and Explosives**

Visit their Web site ([www.atf.gov](http://www.atf.gov)) or call:

Albany area (518) 431-4182

Buffalo area (716) 853-5070

New York City area (718) 650-4000

Syracuse area (315) 448-0889

### **U.S. Small Business Administration**

The U.S. Small Business Administration, established in 1953, provides financial, technical, and management assistance to help Americans start, run, and grow their businesses. Visit their Web site ([www.sba.gov](http://www.sba.gov)) or call 1 800 827-5722.

New York State Department of Taxation and Finance

# Online Tax Center

The place for **all** electronic services!



The *Online Tax Center* offers individuals, businesses, and tax professionals secure and convenient access to a variety of tax services. Access is available 24 hours a day, 7 days a week.\* Use it at your convenience! For more information, visit us on the Web at [www.nystax.gov](http://www.nystax.gov) and click on the *Online Tax Center* link.

\* excluding scheduled maintenance

## After you register, you can:

- pay any amount due on an income tax extension of time to file
- view and reconcile your estimated income tax account or make a payment
- view and pay tax bills (individuals and businesses)
- file a sales tax no-tax-due return

## Without registering you can:

- visit our *Taxpayer Answer Center* for answers to frequently asked questions (FAQs)
- determine which income tax form to file
- apply for an automatic six-month extension of time to file your income tax return
-  get information on e-file and learn how to e-file your income tax return
- find out if you are eligible for **free** e-filing with **FreeFile**
- learn about your electronic payment options, including credit card and electronic funds withdrawal
- check the status of your current-year income tax refund
- use the penalty and interest calculator
- sign up for free e-mail notifications through our subscription service
- look up sales tax jurisdiction and rate information
- and more!



**[www.nystax.gov](http://www.nystax.gov)**

---

---

## Notes

---

---



## 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.