



Instructions for Form DTF-672

Election to Participate in the Tax Shelter Voluntary Compliance Initiative

General information

New York State is offering a Voluntary Compliance Initiative (VCI) for eligible taxpayers who participated in tax avoidance transactions (tax shelters). The VCI allows taxpayers to report and pay underreported tax liabilities, interest, and penalties attributable to tax shelters. The VCI applies to tax liabilities under Tax Law Articles 9, 9-A, 22, 30, 30-A, 30-B, 32, or 33 attributable to the use of tax shelters for tax years beginning before January 1, 2005. The VCI begins November 1, 2008, and ends January 31, 2009. January 31, 2009 falls on a Saturday. VCI applications postmarked by February 2, 2009 will be considered timely. For more information, see Publication 672, *New York State Tax Shelter Voluntary Compliance Initiative*.

Purpose of Form DTF-672, Election to Participate in the Tax Shelter Voluntary Compliance Initiative

Form DTF-672 allows eligible taxpayers who underreported their tax liabilities by participating in tax shelters to participate in the VCI and pay the associated liabilities without incurring all of the penalties for participating in tax shelters. An eligible taxpayer may elect one of two options to participate in the VCI, either with or without appeal rights (see *Section 2* on the back of these instructions).

How to participate

Complete an original or amended tax return for each tax year for which you wish to participate in the VCI. If you did not file a return because of participation in a tax shelter, you must file an original return. A separate Form DTF-672 must be completed for each tax year and for each tax return. Form DTF-672 must be completed and attached to the front of the original or amended return that is being filed as part of the VCI. If you were under Internal Revenue Service (IRS) audit for this same tax shelter transaction and the IRS audit is final, attach a copy of the final federal determination.

Note: Every taxpayer or person required to file a return or report under Tax Law Articles 9, 9-A, 22, 30, 30-A, 30-B, 32, or 33 on or after June 13, 2005, who is or was also required to file a disclosure statement related to a listed or reportable transaction with the IRS (pursuant to section 6011 of the Internal Revenue Code (IRC)), must disclose that information with the New York State return or report. For more information, see the instructions for Forms DTF-686, *Tax Shelter Reportable Transactions*, and DTF-686-ATT, *New York Reportable Transaction Disclosure Statement and Request for a Determination*.

Definitions

A *tax avoidance transaction* (a tax shelter) is a plan or arrangement devised for the principal purpose of avoiding tax. These transactions include, but are not limited to listed transactions. A *listed transaction* is a transaction that is the same as or substantially similar to one that the IRS has determined to be a tax avoidance transaction and is identified by an IRS notice or other form of published guidance.

Eligibility

An *eligible taxpayer* is an individual, partnership, estate, trust, corporation, limited liability company, joint stock company, or any other entity or person, who or which has a tax liability under New York State Tax Law Articles 9, 9-A, 22, 30, 30-A, 30-B, 32, or 33 with regard to a tax avoidance transaction for tax years beginning before January 1, 2005. A taxpayer who participated

in the original VCI may still participate in the current VCI.

An otherwise eligible taxpayer is **not** entitled to participate in the VCI if any of the following apply:

- The taxpayer is a party to any criminal investigation by any federal agency or New York State or any political subdivision thereof, with regard to underreporting or underpayment of tax; **or**
- The taxpayer is a party to any litigation pending at the date of the taxpayer's application in the Bureau of Conciliation and Mediation Services (BCMS) or Tax Appeals or any court of this state or the United States relating to any action or failure to act which is the basis for the penalty with respect to which relief is sought; **or**
- The taxpayer has been convicted of a crime relating to the tax that is the basis for the penalty with respect to which relief is sought for any period or assessment for that tax; **or**
- The taxpayer was eligible to participate in the 2003 New York Offshore Voluntary Compliance Initiative (OVCI), and the transactions are the same as those described in the 2003 OVCI program. (The taxpayer may still participate in the VCI if the transactions were not the same as those that were the basis for participation in the OVCI.)

Specific instructions

Section 1 — Taxpayer information

Individuals

Complete the appropriate lines, including the name and social security number (SSN), spouse's name and SSN (if applicable), mailing address and daytime telephone number. Also enter the form number of the tax return attached to Form DTF-672 (Form IT-200, IT-201, IT-201-X, IT-203, IT-203-X, or IT-113-X). If you are currently under NYS audit, enter the audit case ID number and auditor's name.

Businesses

For purposes of Form DTF-672, a *business* means a corporation, S corporation, partnership, trust, estate, limited liability company, joint stock company, or any other entity other than an individual. Complete the appropriate lines, including the name and federal employer identification number (EIN), contact name, mailing address and daytime telephone number. Enter the form number of the tax return attached to Form DTF-672 (Form CT-3, CT-3-A, CT-3M/4M, CT-3-S, CT-3-S-A, CT-4, CT-4-S, CT-32, CT-32-A, CT-32-M, CT-32-S, CT-33, CT-33-A, CT-33-C, CT-33-M, CT-33-NL, CT-183, CT-183-M, CT-184, CT-184-M, CT-185, CT-186, CT-186-A, CT-186-A/M, CT-186-E, CT-186-EZ, CT-186-M, CT-186-P, CT-186-P/M, CT-8, CT-9, CT-3360, IT-204, IT-205, or IT-113-X). Also enter the type of entity (corporation, S corporation, partnership, trust, estate, limited liability company, joint stock company, etc.). If you are currently under NYS audit, enter the audit case ID number and auditor's name.

Combined and consolidated group information

If the taxpayer is a member of a New York State combined group, Form DTF-672 must be completed and filed by the designated parent or payer corporation on behalf of the group. If a tax shelter reported on this form was reported on a federal return filed by some other entity, enter the name and EIN of that other entity. For example, if the taxpayer is included in a federal consolidated return, but files a separate New York State return,

enter the name and EIN of the parent who filed the federal consolidated return. If the taxpayer is the designated parent or payer corporation of a New York State combined group, and if one of the group's members participated in a tax shelter reported on Form DTF-672, enter that member's name and EIN. Attach a separate schedule if more space is needed.

Section 2 — Voluntary Compliance Initiative (VCI) options

You must elect either Option 1 (without appeal rights) or Option 2 (with appeal rights). Read the descriptions below to determine the benefits and agreements for each option. Under either option, the full amount of tax and interest is due by January 31, 2009. A separate election must be made for each tax year for which you elect to participate in the VCI. The election of either option is irrevocable.

Option 1 – Without appeal rights

If you elect to participate under this option, you may not file a claim for credit or refund with respect to the use of a tax shelter for that tax year. All applicable penalties are waived, except that only 50% of the penalty for failure to participate in the first VCI program will be waived if you participated in a listed or reportable transaction.

See Chapter 61 of the Laws of 2005, Part N, section 11(l).

Additionally, the Commissioner of Taxation and Finance will not bring or seek civil, administrative, or criminal action against the taxpayer for that tax year with respect to the tax shelter.

Option 2 – With appeal rights

If you elect to participate under this option, you retain your right to file a claim for credit or refund with respect to the use of a tax shelter for that tax year. Under this option, all applicable penalties are waived except the negligence and substantial understatement penalties, imposed under Tax Law sections 685(b) and (p), and 1085(b) and (k), may apply. In addition, only 50% of the penalty for failure to participate in the first VCI will be waived if you participated in a listed or reportable transaction. Additionally, the Commissioner of Taxation and Finance will not bring or seek civil, administrative, or criminal action against the taxpayer for that tax year with respect to the tax shelter.

Section 3 — Tax shelter information

Enter the promoter names and addresses. *Promoters* are persons and organizations you paid a fee for promoting, soliciting, or recommending the tax shelter to you. If the tax shelter being reported is a listed or reportable transaction (or substantially similar), enter the IRS notice number. If the tax shelter is not a listed or reportable transaction, explain the transaction. List the names, addresses, and EIN of all entities involved in the tax shelter being reported. If you are filing an amended return, enter the loss, expense or deduction amounts, the ordinary loss amount, the capital loss amount, and the form, schedule, and line item number of the item on your original return. If you are currently under audit, or have been audited or have participated in a settlement for this same transaction with the IRS or another taxing jurisdiction, mark an **X** in the Yes box and enter the name of the jurisdiction and the tax years involved. If you need more space for any of the above items, attach a separate schedule.

Section 4 — Perjury statement

Individuals

Sign and date Form DTF-672 in the spaces provided. If you are filing a joint return, both spouses must sign and date Form DTF-672. You do not need to enter a title. If one spouse

is unable or refuses to sign Form DTF-672, you must provide a statement explaining why that spouse is unable or refuses to sign.

Businesses

Form DTF-672 must be signed and dated by an appropriate owner, officer, or fiduciary for the business. Include the title of the person signing. If more than one signature is needed, use the second line provided. For more information on signature requirements, see the instructions for the tax return you are filing with Form DTF-672.

Mailing instructions

Attach a completed Form DTF-672 to the front of each original or amended return being filed. Completed form(s), tax return(s), and payment(s) must be filed by **January 31, 2009** to:

**NYS DEPARTMENT OF TAXATION AND FINANCE
TAX SHELTER DISCLOSURE
PO BOX 22104
ALBANY NY 12201-2104**

Do not mail to the address shown on the original or amended return.

Private delivery services — If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your return and tax payment. However, if, at a later date, you need to establish the date you filed your return or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* below for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your return, contact that private delivery service for instructions on how to obtain written proof of the date your return was given to the delivery service for delivery.

If you use any private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: NYS Tax Department, Tax Shelter Disclosure, W A Harriman Campus, Albany NY 12227.

Need help?

	Internet access: www.nystax.gov (for information, forms, and publications)	
	Fax-on-demand forms:	1 800 748-3676
	Corporation Tax Information Center:	1 888 698-2908
	Personal Income Tax Information Center:	1 800 225-5829
	From areas outside the U.S. and outside Canada: (518) 485-6800	

Privacy notification — The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

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

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.