



# Instructions for Form MT-203

## Distributor of Tobacco Products Tax Return and Accompanying Schedules (Form MT-203-S)

# MT-203-I

(2/14)

## General information

### Who must file

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

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

### When to file

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

### Definitions

The following definitions relate to tobacco products.

*Little cigars* include any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco, other than natural leaf tobacco wrapper, and weighing not more than four pounds per thousand or with a cellulose acetate or other integrated filter.

*Cigars* include any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is a cigarette). *Cigars* also include, except where expressly excluded, any little cigar.

*Snuff* means any finely cut, ground, or powdered tobacco that is not intended to be smoked. Snuff includes both moist and dry snuff, but does not include chewing tobaccos such as plug or twist tobacco. Snuff also does not include compressed powder tobacco lozenges.

*Tobacco products* include any cigar, including a little cigar, or tobacco, other than cigarettes, intended for consumption by smoking, chewing, or as snuff.

*Wholesale price* is the established price for which a manufacturer sells tobacco products to a distributor before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of the established price, the wholesale price is the manufacturer's invoice price, and in its absence, the wholesale price is the price at which the tobacco products were purchased, unless evidence of a lower wholesale price is established or any industry standard of markups relating to the purchase price in relation to the wholesale price is established. In any event, the wholesale price is the invoice cost without allowance of any quantity discount, cash discount, or any other reduction.

If a distributor of tobacco products is unable to determine the established price for which a manufacturer sold cigars, and the manufacturer's invoice price is not available, the distributor may determine the wholesale price by multiplying its purchase price by the industry standard adjustment ratio of 38% (0.38). See TSB-M-13(12)M, *Determining a Distributor's Wholesale Price of Cigars Using the Industry Standard Adjustment Ratio*, for more information. **If tobacco products are transferred at no charge, gratis, or are otherwise listed as free goods, it is in effect a discount and the ordinary or usual wholesale price of such products must be added to the invoice to arrive at the total wholesale price subject to tax.** Charges for freight, insurance, customs, duties, and other similar charges necessary to effectuate delivery, if separately stated on the invoice, are not

included in the wholesale price. However, federal excise taxes paid by the manufacturer are included in the wholesale price.

### Rates

The New York State excise tax rate on tobacco products (other than little cigars and snuff) is **75% (.75)** of the wholesale price.

The New York State excise tax rate on snuff is \$2.00 per ounce and a proportionate rate on any fractional parts of an ounce. Cans or packages of snuff with a net weight of less than one ounce are taxed at \$2.00 per container.

The New York State excise tax rate for little cigars is \$4.35 for packs containing 20 little cigars. For packs containing other than 20 little cigars, divide the quantity by 20 to compute the equivalent number of 20 packs.

**Example 1:** A box of little cigars contains 50 little cigars. The excise tax rate on this box is \$10.875. ( $50/20 = 2.5$  equivalent 20 packs.  $2.5 \times \$4.35$  tax rate = \$10.875.)

**Example 2:** A pack of little cigars contains 5 little cigars. The excise tax rate on this pack is \$1.0875. ( $5/20 = .25$  equivalent 20 packs.  $.25 \times \$4.35$  tax rate = \$1.0875.)

**Example 3:** The excise tax rate on a single cigar is \$.2175. ( $1/20 = .05$  equivalent 20 packs.  $.05 \times \$4.35$  tax rate = \$.2175.)

## Specific instructions

**Before completing Form MT-203**, complete Form MT-203-S, *Distributor of Tobacco Products Information Schedules*. See the instructions for Form MT-203-S on page 4. An out-of-state distributor is not required to complete Form MT-203-S. See *Out-of-state distributors* on page 2 for more information.

### Tax period and taxpayer identification

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

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

Enter your business telephone number.

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

**No business this month** – Mark an **X** in the box if you did not import, cause to be imported into the state, or manufacture tobacco products during the month being reported on this return, or in the case of an out-of-state business, did not sell tobacco products in New York State.

Sign your return and mail it to the address indicated on the return (see *Payment and mailing addresses* on page 3).

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

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

**Keep these instructions for your records.**

## Line instructions

Show any negative amounts using a minus (-) sign.

**Note: Out-of-state distributors** – If you are an appointed out-of-state distributor authorized by the Commissioner of Taxation and Finance to pay the tax, you are not required to complete Form MT-203-S or lines 4, 5, 23, 24, 39, or 40 on Form MT-203. On Form MT-203, lines 1 through 3, 6 through 9, 25 through 28, and 41 through 44, enter the amounts that relate to the tobacco products you sold, shipped, or delivered to any person located in New York State. On line 23, enter the total snuff you sold, shipped, or delivered to any person located in New York State. On line 38, enter the total little cigars you sold, shipped, or delivered to any person located in New York State.

### Part 1

#### Acquisitions of tobacco products (other than little cigars and snuff) during the month

You must account for all tobacco products that you manufactured in New York State, purchased in the state, imported into the state, received gratuitously, or otherwise acquired during the filing period. Also include tobacco products transferred from your facilities located outside the state to customers or your facilities located within New York State.

#### Distributions of tobacco products (other than little cigars and snuff) made during the month on which tax is not due

All entries on lines 4 through 9 must be supported by invoices, receipts, etc., to establish that the product was distributed in a nontaxable manner. Failure to maintain the documentation will result in the disallowance of these amounts.

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

**Lines 6 through 8** – Although a schedule is not required, use the same methodology referenced for Schedule 7 and Schedule 8 under instructions for Form MT-203-S, when reporting wholesale price.

**Line 8** – Enter the total wholesale price of tobacco products (other than little cigars and snuff) sold to others who are exempt from the tobacco products tax. Others who may be exempt include: a) diplomatic missions and diplomatic personnel; and b) voluntary unincorporated organizations of the armed forces of the United States.

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

## Computation and payment of tax

**Line 12** – Enter the total wholesale price of tobacco products included on line 3 on which the tobacco products tax was paid or assumed by the distributor that sold you the tobacco products (from Form MT-203-S, Schedule 2, line 6). You must keep the invoices stating who paid or assumed payment of the tax, the date, the quantity, and the price of the tobacco product for at least three years or you will be liable for the tax.

**Example:** *Distributor 1 imports cigars/tobacco products into New York State with a wholesale price of \$100. Distributor 1 must report and pay a tobacco products tax of \$75 using Form MT-203. Distributor 1 sells the cigars/tobacco products to Distributor 2 for \$200 (including taxes). Distributor 2 should include the \$200 on lines 1 or 2 (as appropriate) and deduct \$200 on line 12.*

**Lines 15 through 22** – Complete Parts 2 and 3 on page 3 of Form MT-203 before continuing with lines 15 through 22.

**Line 18** – Deduct any overpayment or add any underpayment from previous returns. If the total adjustments from prior returns results in an overpayment of tax, enter as a negative amount using a minus (-) sign. Attach a complete explanation.

**Note:** If you filed an amended return to report changes to a prior return, you may **not** claim that adjustment on line 18.

**Line 19** – If line 18 is a positive amount **add** lines 17 and 18. If line 18 is a negative amount, **subtract** line 18 from line 17.

**Line 20** – Penalty is imposed at the rate of 10% (.10) of the amount of tax due for the first month or fraction of a month that the tax remains unpaid, plus 1% for each subsequent month or fraction of a month that the tax remains unpaid, up to a maximum penalty of 30% of the tax due. If a return is filed more than 60 days after its due date, the minimum penalty becomes the lesser of \$100 or 100% of the tax required to be paid.

Interest is computed at the rate set by the Commissioner of Taxation and Finance and is compounded daily. It is computed from the day the tax was due until the day the tax is paid. Interest is a charge for the use of money and may not be waived. If you need help in computing the interest, see *Need help?* on page 4.

**Line 22** – If you want to file a refund claim instead of requesting a credit toward the next month's return, you must submit your refund claim in writing along with any supporting documentation and send it to: NYS Tax Department – TDAB, Tobacco Products – Refund Claims, W A Harriman Campus, Albany NY 12227.

You may request that the full amount or any portion of the overpayment shown on line 19 be refunded. However, you may not claim a credit for the overpayment on your return on line 22 and apply for a refund of the same overpayment.

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

## Certification

The return must be signed and dated by the owner (if an individual), a partner (if a partnership), or by the president, treasurer, chief accounting officer, or any other person authorized to act on behalf of the corporation (if a corporation). The fact that an individual's name is signed on the certification will be prima facie evidence that the individual is authorized to sign and certify the report on behalf of the business.

Additionally, if anyone other than an employee, owner, partner, or officer of the business is paid to prepare the return, he or she is required to sign and date the return and provide his or her mailing address.

**Paid preparer identification numbers** – New York State Tax Law requires certain paid tax return preparers and facilitators of refund anticipation loans (RALs) and refund anticipation checks (RACs) to register electronically with the Tax Department. When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. (Information on the New York State Tax Preparer Registration Program is available on our Web site. See *Need help?* on page 4.) In addition, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your SSN. (PTIN information is available at [www.irs.gov](http://www.irs.gov).)

## Payment and mailing addresses

Make your check or money order payable to:

**Commissioner of Taxation and Finance.** Write on your check or money order **Form MT-203** (or **Form MT-203-MN**), your identification number, and the period that you are reporting.

If your payment is returned by a bank, the Tax Department is allowed by law to charge a \$50 fee for nonpayment. However, if the payment is returned as a result of an error by the bank or department, the department will not charge the fee. If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

Attach your remittance to the return and mail to:

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

**Private delivery services** – If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: NYS Tax Department, Misc. Tax In sourcing Unit, W A Harriman Campus, Albany NY 12227.

## Part 2

Enter your legal name, EIN, and the filing period, if they are not preprinted.

### Acquisitions of snuff during the month

**Line 23** – Enter the total snuff acquired (from Form MT-203-S, line 19). Out-of-state distributors, enter the total snuff sold, shipped, or delivered into New York State during the month.

### Distributions of snuff made during the month on which the tobacco products tax is not due

All entries on lines 24 through 29 must be supported by invoices, receipts, or other supporting documentation, to establish that the product was distributed in a nontaxable manner. Failure to maintain the documentation will result in the disallowance of these amounts.

**Line 28** – Enter the total snuff sold to others who are exempt from the tax on snuff. Others who may be exempt include: a) diplomatic missions and diplomatic personnel; and b) voluntary unincorporated organizations of the armed forces of the United States.

**Line 29** – Enter the total snuff that is unfit for use and consumption, is unsalable, or has been destroyed. If you return snuff to a manufacturer or other seller, attach a signed statement from the manufacturer or other seller documenting the return of snuff. Attach a copy of any approval from the Alcohol and Tobacco Tax and Trade Bureau.

### Computation of tax on snuff

**Line 32** – Enter the total quantity of snuff included on line 23 on which the tax on snuff was paid or assumed by the distributor that sold you the tobacco products. You must keep the invoices stating who paid or assumed payment of the tax, the date, the quantity, and the price of the snuff for at least three years or you will be liable for the tax.

**Example:** *Distributor 1 imports 100 ounces of snuff into New York State and pays the proper tax using Form MT-203. Distributor 1 sells the 100 ounces of snuff to Distributor 2 with the taxes included. Distributor 2 should include the 100 ounces of snuff on line 23 and deduct 100 ounces of snuff on line 32.*

## Part 3

Enter your legal name, EIN, and the filing period, if they are not preprinted.

### Acquisitions of little cigars during the month

**Line 38** – Enter the total little cigars acquired (from Form MT-203-S, line 29). Out-of-state distributors, enter the total little cigars sold, shipped, or delivered into New York State during the month.

### Distributions of little cigars made during the month on which the tobacco products tax is not due

All entries on lines 39 through 44 must be supported by invoices, receipts, or other supporting documentation, to establish that the product was distributed in a nontaxable manner. Failure to maintain the documentation will result in the disallowance of these amounts.

**Line 43** – Enter the total little cigars sold to others who are exempt from the tax on little cigars. Others who may be exempt include: a) diplomatic missions and diplomatic personnel; and b) voluntary unincorporated organizations of the armed forces of the United States.

**Line 44** – Enter the total little cigars that are unfit for use and consumption, are unsalable, or have been destroyed. If you return little cigars to a manufacturer or other seller, attach a signed statement from the manufacturer or other seller documenting the return of little cigars. Attach a copy of any approval from the Alcohol and Tobacco Tax and Trade Bureau.

### Computation of tax on little cigars

**Line 47** – Enter the total quantity of little cigars included on line 38 on which the tax on little cigars was paid or assumed by the distributor that sold you the tobacco products. You must keep the invoices stating who paid or assumed payment of the tax, the date, the quantity, and the price of the little cigars for at least three years or you will be liable for the tax.

**Example:** *Distributor 1 imports 1000 little cigars into New York State and pays the proper tax using Form MT-203. Distributor 1 sells the 1000 little cigars to Distributor 2 with the taxes included. Distributor 2 should include the 1000 little cigars on line 38 and deduct 1000 little cigars on line 47.*

## Instructions for Form MT-203-S

Enter your legal name, EIN, and the filing period on Form MT-203-S. All quantity amounts must be reported either as the number of cigars, pounds of tobacco, number of little cigar packs, containers of snuff, or ounces of snuff. Do not round dollar amounts or ounces of snuff.

If you need additional space for any schedule, attach a separate sheet of paper to Form MT-203-S listing the requested information in the same format.

### Acquisitions – Schedules 1 through 6

Complete each schedule by filling in all of the requested information for each acquisition of tobacco products.

**Schedule 1** – If a distributor of tobacco products knows the established price or invoice price for which a manufacturer sold cigars, the distributor **must** enter the established price or invoice price as the wholesale price. The industry standard adjustment ratio of 38% (0.38) can be used to determine the wholesale price of cigars **only** when an established price or manufacturer's price is not available.

Attach separate schedules for cigars purchased using the actual manufacturer's price and cigars purchased using the industry standard adjustment ratio. Report the total of both attachments on Schedule 1, line 2.

**Schedule 2** – For tax-paid purchases, use the price you paid to another distributor with taxes included. The industry standard adjustment ratio does not apply. However, see the instructions for Form MT-203, line 12.

**Schedules 3 and 4** – Complete each schedule by filling in all of the requested information for each acquisition of tobacco products.

**Schedules 5 and 6** – For packs containing other than 20 little cigars, enter the amounts as equivalent 20 packs in the appropriate little cigars column of schedule 5, 6, 11, or 12.

**Example 1:** A distributor purchased tax-free from its supplier 3 boxes of little cigars containing 50 little cigars per box. The distributor should enter 7.5 on schedule 5. (Each box contains 2.5 equivalent 20 packs  $[50/20 = 2.5]$ . 3 boxes  $\times$  2.5 = 7.5.)

**Example 2:** A distributor purchased tax-free from its supplier 1 pack of little cigars containing 5 little cigars. The distributor should enter .25 on schedule 5. (Each pack contains .25 equivalent 20 packs  $[5/20 = .25]$ . 1 pack  $\times$  .25 = .25.)

**Example 3:** You purchase a case of 600 little cigars (5 little cigars per pack  $\times$  120 packs). Convert this amount to 30 packs of little cigars ( $600/20 = 30$  equivalent packs).

### Transfers and sales – Schedules 7 through 12

**Sales out of state** – In order to sell tobacco products tax free to an out-of-state purchaser, possession of the tobacco products must be **transferred to the purchaser at a point outside New York State**. (If an out-of-state purchaser or such purchaser's agent takes possession of tobacco products within New York State, the tobacco products tax is **not** refundable to you.)

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

**Example 1:** Distributor 1 imports \$1,000 of tobacco products and pays a tobacco products tax of \$750 (\$1,000 wholesale price  $\times$  0.75 tax rate). Distributor 1 sells **40%** of these products to customers located outside of New York State for \$800. Distributor 1 should enter **\$400** ( $\$1,000 \times 0.40$ ) on Schedule 8 as the wholesale price of tobacco products sold to customers out

of state; that is, 40% of the wholesale price on which the tax was paid by Distributor 1.

**Example 2:** Distributor 1 imports \$1,000 of tobacco products and pays a tobacco products tax of \$750 (\$1,000 wholesale price  $\times$  0.75 tax rate). Distributor 1 sells **all** of these products to Distributor 2 for \$2,000. Distributor 2 sells **all** of the products to customers located outside of New York State. Distributor 2 should enter **\$1,000** on Schedule 8 as the wholesale price of tobacco products sold to customers out of state; that is, the wholesale price on which the tax was paid by Distributor 1.

If you made transfers or sales to customers in two or more states, attach a separate copy of Schedules 7 through 12 or separate sheets of paper to Form MT-203-S for each state listing this information in the same format. Fill in the state name then enter all of the requested information for each separate transfer or sale of cigars, little cigars, snuff, or other tobacco products made to locations or purchasers in that state. Enter your legal name and EIN on each attachment.

### Distributions – no tax due

**Schedule 7** – If tax was paid on, or will be computed using the manufacturer's established price or invoice price you paid to the manufacturer, enter that amount as the wholesale price. If tax was paid on, or will be computed by multiplying the purchase price you paid by the industry standard adjustment ratio of 38% (0.38) to determine the wholesale price, enter that amount as the wholesale price. If tax was paid or assumed by another distributor, enter the wholesale price on which the tobacco products tax was paid or assumed by the distributor that sold you the tobacco products. Attach separate schedules for cigars purchased using the actual manufacturer's price, cigars purchased using the industry standard adjustment ratio and cigars purchased from another distributor. Report the total of all attachments on Schedule 7, line 32.

**Schedule 8** – Attach separate schedules for cigars purchased using the actual manufacturer's established price or invoice price, cigars purchased using the industry standard adjustment ratio, and cigars purchased from another distributor. Report the total of all attachments on Schedule 8, line 36.

Although a schedule is not required to compute lines 6 through 8 on Form MT-203-S, use the same methodology referenced for Schedule 7 and Schedule 8 when reporting wholesale price.

### Privacy notification

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

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

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

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

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

### Need help?



Visit our Web site at [www.tax.ny.gov](http://www.tax.ny.gov)  
(for information, forms, and online services)



**Miscellaneous Tax** Information Center: (518) 457-5735  
To order forms and publications: (518) 457-5431



**Text Telephone (TTY) Hotline**  
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082