



Greater New York
Automobile Dealers
Association

Answered: Your Most Frequently Asked Questions about Dealership Sales Tax

September 10, 2020



Greater New York
Automobile Dealers
Association

With us today...

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Greater New York
Automobile Dealers
Association



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Exempt Sales



**Greater New York
Automobile Dealers
Association**

Exempt Organization Certificate

- Form ST-119.1
- If you have any concerns about the validity of the Certificate, call New York State at (518) 485-2889.
 - The exempt organization **must be the direct purchaser and payer of record.**
 - Payment must be made by the exempt organization, not by a member, officer or employee of the organization.
 - **Any personal use of the vehicle makes the sale subject to sales tax – LET'S GO OVER FORM MV-82** (next slide).
 - New York State Department of Taxation and Finance states that this is a DMV form, and they are not bound by it.



Department of Motor Vehicles

VEHICLE REGISTRATION/TITLE APPLICATION FOR DEALER SALES

This form is available at dmvc.ny.gov

Office Use Only section with checkboxes for Orig, Activity, Renewal, Lease Buyout, Dup, Activity W/RR, Renew W/RR, Sales Tax with Title.

I WANT TO: REGISTER A VEHICLE, RENEW A REGISTRATION, GET A TITLE ONLY, CHANGE A REGISTRATION, REPLACE LOST OR DAMAGED ITEMS, TRANSFER PLATES. Includes Plate Number field.

1 NAME OF PRIMARY REGISTRANT (Last, First, Middle or Business Name), Registrant Type, NYS driver license ID number, DATE OF BIRTH, GENDER, NAME OF CO-REGISTRANT, NYS driver license ID number, DATE OF BIRTH, GENDER, NAME CHANGE?, ADDRESS CHANGE?, FORMER NAME, EMAIL, THE ADDRESS WHERE PRIMARY REGISTRANT GETS MAIL, THE ADDRESS WHERE PRIMARY REGISTRANT RESIDES IF DIFFERENT FROM THE MAILING ADDRESS.

2 VEHICLE IDENTIFICATION NUMBER, VEHICLE DESCRIPTION, Body Type, Color, Type of Power, Cylinders, For trailers & commercial vehicles, Maximum Gross Weight, Adult Seating Capacity, Odometer Reading in Miles, Office Use Only Mileage Brand, For commercial vehicles, Ades, Distance.

3 IF THE OWNER OF THE VEHICLE IS DIFFERENT FROM THE REGISTRANT, THE OWNER MUST COMPLETE THIS SECTION. NYS driver license number of OWNER, NAME OF CURRENT OWNER(s), DATE OF BIRTH, GENDER, THE ADDRESS WHERE OWNER GETS MAIL.

DEALER USE ONLY - LIEN FILING - Alterations are not allowed in the lienholder section below. Choose pda, Lien Filing Code, Lienholder Name, Lienholder Mailing Address.

NEW YORK DEALERS ONLY. Did you issue plates in this vehicle?, Plate Number, Reg. Class, Date Temp Issued, Facility ID Number.

DEALER CERTIFICATION: I certify that all information provided on this application is true. I take responsibility for the integrity of the papers delivered to the Motor Vehicles office.

OFFICE USE ONLY. New Price, Sales Tax Status, Value, Note, Out of State, Ins. Co. Code, Jurisdiction, Special Conditions, Prior Owner, Lien Release, Proof Submitted, Reg Title, State, Dept/Response/Conf Law, Approved By, Date.

4 ADDITIONAL VEHICLE INFORMATION - QUESTIONS 1-4 MUST BE COMPLETED.

- 1. Has the vehicle been wrecked, destroyed, or damaged to such an extent that the total estimate, or actual cost, of parts and labor to rebuild or reconstruct the vehicle to the condition it was in before an accident, and to make the vehicle legal to operate on the road or highways, is more than 75% of the retail value of the vehicle at the time of loss?
2. Is this vehicle registered for your personal use?
3. Has this vehicle been modified from the original manufacturer specifications?
4. Was this vehicle altered to increase the capacity beyond that provided by the manufacturer by method of extended chassis, lengthened wheel base, or a lengthened seating area?

5 CERTIFICATION: I certify that the information I have given on this application and on any documentation provided in support of this application is true and complete.

I certify that the vehicle is fully equipped as required by the Vehicle and Traffic Law, and has passed the required New York State Inspection, or has qualified for a time extension (Form VS-1077) and will be inspected within 10 days. I also certify that appropriate insurance coverage is in effect, and that the vehicle will be operated in accordance with the Vehicle and Traffic Law.

WARNING: Intentionally making a false statement or providing false or misleading information in connection with this application is a criminal offense that may subject you to prosecution under the law.

Print Name Here, Sign Here, Print Additional Name Here, Additional Signature Sign Here.

Exempt Organization Issues: Examples

1. The treasurer of an exempt organization purchases office furniture for the organization. The treasurer provides the vendor with a properly completed Form ST-119.1 and makes payment using the organization's credit card. The treasurer may purchase the office furniture exempt from sales tax.
2. An authorized employee of an exempt organization purchases office equipment that will be used by and become the property of the organization. The employee uses their personal credit card and will be reimbursed for the purchase by the organization. **The purchase of the equipment will not be exempt from sales tax because payment is made using the employee's funds and not the funds of the organization**

Certificate of Indian Exemption for Certain Property or Services Delivered on a Reservation



Form DTF-801 lists qualifying reservations, nations and tribes

- Except for motor vehicles as described below, there is no exemption for products, goods, or services delivered off the reservation.
- The Indian or corporation may take possession of the motor vehicle anywhere in New York State without paying sales tax if the vehicle registration confirms that:
 - the Indian resides on a qualified reservation **and** is an enrolled member of one of the exempt nations or tribes listed.
 - the tribally chartered corporation has a place of business located on a qualified reservation of one of the exempt nations or tribes listed.

DTF Form-801 Certificate of Indian Exemption: <https://gernatt.com/wp-content/uploads/2019/06/dtf801-Certificate-of-Indian-Exemption.pdf>

Farmer's and Commercial Horse Boarding Operator's Exemption Certificate

- Form ST-125: As long as vehicle is predominantly used (more than 50% measured by hours of usage or miles traveled) for Farm Production or Commercial Horse Boarding then the exemption applies.
- Farm Production means the production of tangible personal property for sale by farming.
- Commercial Horse Boarding Operation means an agricultural enterprise of at least **seven acres and boarding at least 10 horses**.
 - An operation whose primary on site function is horse racing is **not included** in this exemption.



DTF Form ST-125 Farmer's and Commercial Horse Boarding Operator's Exemption:

https://www.tax.ny.gov/pdf/current_forms/st/st125.pdf?sessionId=1534291200071&referrer=&lastReferrer=www.avalara.com

Sales Tax Exemption - Diplomats

- **Diplomatic Tax Exemption Cards are no longer valid for exemption from sales tax imposed on purchase of motor vehicles.**
- Exemption of sales and use taxes on purchases or leases of motor vehicles to Diplomats is **solely** authorized via the issuance of a **Motor Vehicle Tax-Exemption Letter** by the Department's Office of Foreign Missions to the seller or lessor of such motor vehicle.
 - Prior to finalizing a purchase or lease of a motor vehicle, all foreign missions and their accredited members must **instruct the dealer to directly contact** the Office of Foreign Missions to request the issuance of a Motor Vehicle Tax-Exemption Letter.

Sales Tax Exemption - Diplomats

When requesting the Letter, dealers must provide the following information to OFM:

- Dealer's name, mailing address, and telephone and fax numbers;
- Color, year, make, and model of the vehicle that the diplomat is buying/leasing; and
- For official motor vehicles: the name of the foreign mission that is purchasing or leasing the vehicle; or
- **For personal motor vehicles:** the name (as it appears on their current "A or G series" visa) of the diplomat or their dependent who is purchasing or leasing a motor vehicle, the name of the foreign mission to which the individual is assigned, and the individual's Department-issued Personal Identification Number (PID).

(Note that individuals must present proof of accreditation to the dealer- i.e., valid passport which contains their current "A or G series" visa, or Department-issued protocol identification card, or Department-issued driver's license, or Department-issued Diplomatic Tax Exemption Card.)



Sales Tax Exemption - Diplomats

- Dealers may make such requests by email or telephone to:
- New York Office of Foreign Missions contacts:
 - OFMNYCustomerService@state.gov
 - (646) 282-2825



New York State and Local Sales and Use Tax Resale Certificate

- Proper issuance of an ST-120:
 - Part 2 should never be accepted.
- Extended Warranties:
 - If the extended warranty company refuses to give you a properly completed ST-120, you must collect sales tax.

See TB-ST-836 https://www.tax.ny.gov/pubs_and_bulls/tg_bulletins/st/service_contracts.htm



Extended Warranties

- TSB-A-06(29)S:
 - In Scenario 1, Company's service contracts are sold to New York customers through third-party Retailers at locations in New York State. When a New York Retailer sells a product to a customer in New York, the Retailer may also sell Company's service contract covering the repair or replacement of the product purchased. In addition, the Retailer may be the entity which does the repair or makes the replacement. The Retailer is considered a representative of the Company. See *Scripto, Inc. v Carson*, 362 U.S. 207 (1960).
 - Accordingly, the Company, through the action of the Retailers on the Company's behalf, is considered to have sufficient nexus with New York State to require it to register for sales tax purposes.

https://www.tax.ny.gov/pdf/advisory_opinions/sales/a06_29s.pdf



Extended Warranties

- Additional consideration, such as deductibles, under an extended warranty is subject to sales tax.
- Loaner vehicles provided without charge to your customers under an extended warranty contract are not subject to sales tax.



Extended Warranties

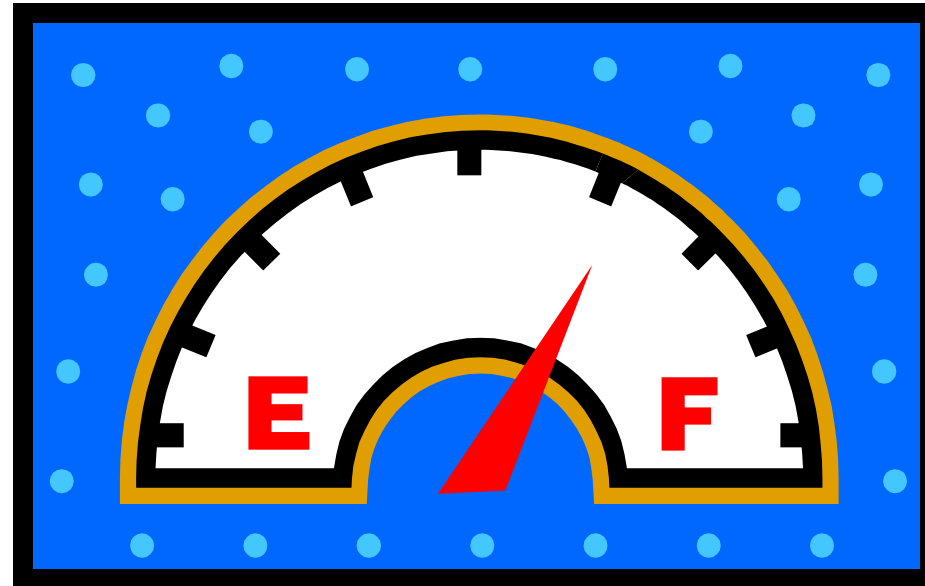
- TSB-A-91 (31)S Sales Tax - April 4, 1991
 - The charges paid to repair shops for performing warranty work are not subject to sales tax, as the repairs are deemed to be purchased for resale.
 - If the company is registered as a vendor for New York State sales tax purposes, the company may issue a Resale Certificate (Form ST-120), to repair shops for warranty work performed on its behalf.
 - Not Registered means they cannot issue ST-120.
 - Extended Warranty Companies are loath to register.

https://www.tax.ny.gov/pdf/advisory_opinions/sales/a91_31s.pdf



Sales Tax Credit – Fuel Fill

Contractual obligation to provide customer full tank = entitled to sales tax refund



Sales Tax Credit - Fuel Fill

NYS DTF Form FT-500



New York State Department of Taxation and Finance

Application for Refund of Sales Tax Paid on Petroleum Products

Tax Law — Articles 28 and 29

FT-500
(9/11)

For office use only	
Total \$	Date
Audited by	
Approved by	
Approved by	
Approved by	

1. Name <u>ABC CORP</u>		2. Period covered by claim (date(s) of purchase) (mm/dd/yyyy) <u>JUNE - AUG 2013</u>	
3. Street address <u>ANYWHERE</u>		4. Telephone number ()	
5. City <u>NY</u>	County <u>NY</u>	State <u>NY</u>	ZIP code <u>10001</u>
6. Employer identification number (EIN) <u>12-3456789</u>		7. Total amount of refund claimed <u>3469.20</u>	

Note: Complete this application in full, including the Schedule of motor fuel and diesel motor fuel purchases on page 3. This form may not be used to claim a refund of the prepaid sales tax (see instructions).

B. Fuel was used (mark an X in applicable box; see instructions)

- A — by an exempt organization
If marked, enter 6-digit exempt organization number and attach a copy of Form ST-119, Exempt Organization Certificate
- B — by a qualified Indian nation or tribe
If marked, enter 6-digit exempt organization number and attach a copy of Form ST-119, Exempt Organization Certificate
- C — in farm production or in a commercial horse boarding operation
- D — by a qualified empire zone enterprise (QEZE)
Mark an X in the box next to the applicable employment test worksheet and attach the appropriate form to the application.
 AU-12.1, Employment Test for Businesses Certified by Empire State Development (ESD) Before April 1, 2005
 AU-12.2, Employment Test for Businesses Certified by Empire State Development (ESD) On or After April 1, 2005, and Before April 1, 2009
 AU-12.3, Employment Test for Businesses Certified by Empire State Development (ESD) On or After April 1, 2009
- E — by an omnibus carrier or vessel operator in local transit service
- F — for residential purposes
- G — by a qualified Indian
If marked, enter both of the following: • qualifying tribe or nation _____
• qualifying reservation _____
- H — by manufacturers, processors, generators, assemblers, refiners, miners, and extractors
- I — other SEE TSB-A-04(9)S
If marked, enter explanation NEW CAR DEALER PURCHASING GAS FOR RESALE

(continued on page 2)



Sales Tax Credit - Fuel Fill

NYS DTF Form FT-500

Page 2 of 3 FT-500 (9/11)

9. Mark an **X** in this box if you are filing this sales tax refund form together with a refund form for motor/diesel motor fuel tax or petroleum business tax for the same period. Attach invoices or other information as required by all forms and mail all forms in one envelope.

Certification: I, X _____, the applicant named above, or partner, officer, or other authorized representative of such applicant, do hereby:

- make application for refund of tax, pursuant to the New York State Tax Law; and
- certify that the above statements, and any documents provided to substantiate the refund claimed, are true, complete and correct and that no material information has been omitted; and
- certify that all of the tax for which this claim is filed has been paid, and no portion has been previously credited or refunded to the applicant by any person required to collect tax; or, if the claim for refund is made by a person required to collect tax, that the amount claimed has not previously been refunded to the appropriate purchaser; and
- certify that no amount claimed has previously been subject to a credit or refund; and
- make these statements with the knowledge that willfully providing false or fraudulent information with this document with the intent to evade tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence; and
- understand that the Tax Department is authorized to investigate the validity of the refund claimed and the accuracy of any information provided with this claim.

Authorized person	Signature of authorized person <u>X</u>		Official title <u>X</u>	
	E-mail address of authorized person <u>X</u>		Telephone number ()	Date
Paid preparer use only <i>(see instr.)</i>	Firm's name <i>(for yours if self-employed)</i>			
	Signature of individual preparing this return		Firm's EIN	Preparer's PTIN or SSN
	Address		City	State ZIP code
	E-mail address of individual preparing this return	Telephone number ()	Preparer's NYTPRN	Date

MAILING ADDRESS:
 NYS TAX DEPARTMENT
 FUEL TAX REFUND UNIT
 PO BOX 5501
 ALBANY, NY 12205-5501

https://www.tax.ny.gov/pdf/current_forms/st/ft500i.pdf



Sales Tax Credit - Fuel Fill

Schedule of Motor Fuel & Diesel Motor Fuel Purchases

FT-500 (9/11) Page 3 of 3

Schedule of motor fuel and diesel motor fuel purchases

A Date of purchase	B Seller's name	C Delivery location (city and county)	D Invoice number	E Type of product* (see Pub 902)	F Number of gallons	G Total sales tax (on invoice)	H Sales tax refund claimed (dollars and cents)
JUNE	HESS	NY, NY	JUNE 2013	065	5010	1163 57	1163 57
JULY	HESS	NY, NY	JULY 2013	065	4879	1152 64	1152 64
AUG	HESS	NY, NY	AUG 2013	065	4839	1152 79	1152 79
		* ATTACH LISTED BILLS					
		ATTACH ONE MONROEY LABEL					
						Total amount of refund claimed (enter amount on page 1, line 7)	
						3469 00	



Sales Tax Credit - Fuel Fill

Credit for Sales Tax Paid on Gasoline Purchased For Resale

CREDIT FOR SALES TAX PAID ON GASOLINE PURCHASED FOR RESALE

QUARTER ENDED		FUEL FILL (GALLONS)	SALES (UNITS) PER FACTORY STATEMENT			UNIT TOTAL	TOTAL GALLONS SOLD
YEAR	MODEL		1st MONTH	2nd MONTH	3rd MONTH		
2013	XYZ		16,832	300	290		
TOTALS			300	290	285		
						AVERAGE PRICE PER GALLON	3.80
						SEE SALES TAX TABLE TO CALCULATE	
						AVERAGE SALES TAX CREDIT PER GALLON	0.2355
						TOTAL SALES TAX	
						CREDIT REPORTED ON FT-500	
							3,469



Sales Tax Credit – Fuel Fill

NYS DTF Pub 873



Department of
Taxation and Finance

Publication 873

(8/18)

Sales Tax Collection Charts for Qualified Motor Fuel or Highway Diesel Motor Fuel Sold at Retail

The charts in this publication show the amount of the local sales tax component in any given pump price of a gallon of qualified motor fuel or highway diesel motor fuel. They are to be used to verify the sales tax due, **not** to establish pump prices.

Note: Use this publication only to determine the local sales tax in jurisdictions that impose and compute their sales tax on qualified motor fuel or highway diesel motor fuel using a percentage sales tax rate. This method does not apply in those localities that have changed to a cents-per-gallon method of computing the local sales tax due.

The pump price per gallon of fuel at each sales tax rate must include:

- federal tax (current rates are available from the Internal Revenue Service); and
- New York State motor fuel or diesel motor fuel excise tax and the petroleum business tax (see Publication 800, *Fuel Tax Rates*, for the applicable cents-per-gallon rates); and
- New York State sales tax (8 cents per gallon); and
- local sales tax; and
- Metropolitan Commuter Transportation District (MCTD) sales tax (½ cents per gallon), if applicable. The MCTD consists of the city of New York and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

Computing gross sales, taxable sales and self-use, and sales tax due:

Note: This publication contains two separate charts.

Part 1 provides the local sales tax component for jurisdictions outside the MCTD, where the state sales tax is 8 cents per gallon. **Part 2** provides the local sales tax component for jurisdictions inside the MCTD, where the state sales tax is 8½ cents per gallon. Please be sure to reference the appropriate chart for the jurisdiction where you made taxable sales when performing the computations below. Using the incorrect chart will result in errors in your computations.

1. To compute gross sales:
 - A. Subtract the New York State 8 cents-per-gallon and MCTD ½ cents-per-gallon sales tax (if applicable) from the pump price.
 - B. Subtract the local Sales tax per gallon amount shown in the far right column of this publication for that pump price from the amount determined in step 1A above.
 - C. Multiply the amount from step 1B by the number of gallons sold at that pump price.
 - D. Add the resulting amounts for all pump prices.

2. To compute taxable sales and self-use:

- A. Subtract the New York State motor fuel or diesel motor fuel excise tax (see Article 12-A, rates in Publication 800, *Fuel Tax Rates*, for the applicable cents-per-gallon rate) from the amount determined in step 1B above. This is the taxable base price for each gallon sold at that pump price.
- B. Multiply the taxable base price from step 2A above by the number of gallons sold at that pump price.
- C. Add the resulting amounts for all pump prices. This is your **taxable sales** amount.
- D. To compute your **taxable self-use**, subtract the New York State motor fuel or diesel motor fuel excise tax from your purchase price. Multiply the result by the number of gallons you removed from inventory for your use.
- E. Add the amounts from step 2C and 2D (your **taxable sales and self-use**).

For B20 biodiesel only: To determine the local sales tax on sales and uses of qualified highway B20 biodiesel, multiply 80% of the taxable receipt by the percentage rate for the jurisdiction. Therefore, you must multiply the result from step 2E above by 80% to determine your **taxable sales and self-use** of B20 biodiesel.

3. To compute sales tax due, multiply the taxable sales and self-use amounts from step 2E above by the local sales tax rate listed on Schedule FR, *Sales and Use Tax on Qualified Motor Fuel and Highway Diesel Motor Fuel*. This calculation must be done for each jurisdiction in which you made taxable sales or uses of qualified motor fuel or highway diesel motor fuel.



Sales Tax Credit – Fuel Fill Pump Price Per Gallon Chart

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Pump price per gallon						Sales tax per gallon
Part 2 Jurisdictions inside the MCTD						
2½%	3%	3½%	4%	4½%	4¾%	
145.9–149.9						3.2
150.0–154.0						3.3
154.1–158.1						3.4
158.2–162.2						3.5
162.3–166.3						3.6
166.4–170.4						3.7
170.5–174.5						3.8
174.6–178.6	149.0–152.3					3.9
178.7–182.7	152.4–155.7					4.0
182.8–186.8	155.8–159.2					4.1
186.9–190.9	159.3–162.6					4.2
191.0–195.0	162.7–166.0					4.3
195.1–199.1	166.1–169.5					4.4
199.2–203.2	169.6–172.9					4.5
203.3–207.3	173.0–176.3					4.6
207.4–211.4	176.4–179.8					4.7
211.5–215.5	179.9–183.2	148.2–150.9				4.8
215.6–219.6	183.3–186.6	151.0–153.6				4.9
219.7–223.7	186.7–190.1	153.7–156.4				5.0
223.8–227.8	190.2–193.5	156.5–159.2	148.1–150.6			5.1
227.9–231.9	193.6–196.9	159.3–161.9	150.7–153.2			5.2
232.0–236.0	197.0–200.4	162.0–164.7	153.3–155.8			5.3
236.1–240.1	200.5–203.8	164.8–167.5	155.9–158.4	148.0–150.4		5.4
240.2–244.2	203.9–207.2	167.6–170.2	158.5–161.0	150.5–152.8		5.5
244.3–248.3	207.3–210.7	170.3–173.0	161.1–163.6	152.9–155.3		5.6
248.4–252.4	210.8–214.1	173.1–175.8	163.7–166.2	155.4–157.7	148.0–150.2	5.7
252.5–256.5	214.2–217.5	175.9–178.5	166.3–168.8	157.8–160.2	150.3–152.5	5.8
256.6–260.6	217.6–221.0	178.6–181.3	168.9–171.4	160.3–162.6	152.6–154.9	5.9
260.7–264.7	221.1–224.4	181.4–184.1	171.5–174.0	162.7–165.1	155.0–157.2	6.0
264.8–268.8	224.5–227.8	184.2–186.8	174.1–176.6	165.2–167.6	157.3–159.5	6.1
268.9–272.9	227.9–231.3	186.9–189.6	176.7–179.2	167.7–170.0	159.6–161.8	6.2
273.0–277.0	231.4–234.7	189.7–192.4	179.3–181.8	170.1–172.5	161.9–164.2	6.3
277.1–281.1	234.8–238.1	192.5–195.1	181.9–184.4	172.6–174.9	164.3–166.5	6.4
281.2–285.2	238.2–241.6	195.2–197.9	184.5–187.0	175.0–177.4	166.6–168.8	6.5
285.3–289.3	241.7–245.0	198.0–200.7	187.1–189.6	177.5–179.8	168.9–171.1	6.6
289.4–293.4	245.1–248.4	200.8–203.4	189.7–192.2	179.9–182.3	171.2–173.4	6.7
293.5–297.5	248.5–251.9	203.5–206.2	192.3–194.8	182.4–184.7	173.5–175.8	6.8
297.6–301.6	252.0–255.3	206.3–209.0	194.9–197.4	184.8–187.2	175.9–178.1	6.9
301.7–305.7	255.4–258.7	209.1–211.7	197.5–200.0	187.3–189.6	178.2–180.4	7.0
305.8–309.8	258.8–262.2	211.8–214.5	200.1–202.6	189.7–192.1	180.5–182.7	7.1
309.9–313.9	262.3–265.6	214.6–217.3	202.7–205.2	192.2–194.5	182.8–185.1	7.2
314.0–318.0	265.7–269.0	217.4–220.0	205.3–207.8	194.6–197.0	185.2–187.4	7.3
318.1–322.1	269.1–272.5	220.1–222.8	207.9–210.4	197.1–199.4	187.5–189.7	7.4
322.2–326.2	272.6–275.9	222.9–225.6	210.5–213.0	199.5–201.9	189.8–192.0	7.5
326.3–330.3	276.0–279.3	225.7–228.3	213.1–215.6	202.0–204.3	192.1–194.3	7.6
330.4–334.4	279.4–282.8	228.4–231.1	215.7–218.2	204.4–206.8	194.4–196.7	7.7
334.5–338.5	282.9–286.2	231.2–233.9	218.3–220.8	206.9–209.3	196.8–199.0	7.8
338.6–342.6	286.3–289.6	234.0–236.6	220.9–223.4	209.4–211.7	199.1–201.3	7.9
342.7–346.7	289.7–293.1	236.7–239.4	223.5–226.0	211.8–214.2	201.4–203.6	8.0
346.8–350.8	293.2–296.5	239.5–242.2	226.1–228.6	214.3–216.6	203.7–206.0	8.1
350.9–354.9	296.6–299.9	242.3–244.9	228.7–231.2	216.7–219.1	206.1–208.3	8.2
355.0–359.0	300.0–303.4	245.0–247.7	231.3–233.8	219.2–221.5	208.4–210.6	8.3
359.1–363.1	303.5–306.8	247.8–250.5	233.9–236.4	221.6–224.0	210.7–212.9	8.4
363.2–367.2	306.9–310.2	250.6–253.2	236.5–239.0	224.1–226.4	213.0–215.2	8.5



Sales Tax Credit – Fuel Fill Best Practices

- Open national account with gas company to easily track gas purchases for customer fills
- Total gallons purchased should exceed gallonage claiming (demos, swaps)
- Consider booking refund when submitted

Sales Tax Credit – Fuel Fill Best Practice

- Complete Form FT-500 & attachments
- Contractual obligation = apply for credit



Sales Tax Credit – Fuel Fill Resources

- ❑ Publication 873
- ❑ FT-500
- ❑ TSB-A-04(9)S (April 7, 2004)

<https://www.tax.ny.gov/pdf/publications/sales/pub873.pdf>

https://www.tax.ny.gov/pdf/current_forms/st/ft500i.pdf

https://www.tax.ny.gov/pdf/current_forms/st/ft500.pdf

https://www.tax.ny.gov/pdf/advisory_opinions/sales/a04_9s.pdf



Trade-ins



**Greater New York
Automobile Dealers
Association**

Trade-ins - Defined

- Any tangible personal property (the trade-in does not have to be a vehicle) accepted by the dealer as partial payment of a vehicle and intended for resale is excluded from the amount subject to sales tax.
- The buyer does not have to be the owner of the trade-in. Obtain proper documentation from the owner indicating the property (typically a vehicle) can be used for its trade-in value.

Pre-Trades

- A customer trades-in their car before choosing a new car. Can you give them a trade-in allowance on car purchased after?
 - One Week?
 - One Month?
 - One Year?
- Section 526.5(f) Trade-in. Any allowance or credit for **any** tangible personal property accepted in part payment by a vendor on the purchase of tangible personal property or services and intended for resale by such vendor shall be excluded when arriving at the receipt subject to tax.
- Would your opinion be different if the dealer loaned the pre-trade value of the vehicle back to the customer until their vehicle was available?
- At what point do the facts and circumstances indicate that there are two separate transactions-
 - A sale of a vehicle by the customer to the dealer;
 - A sale of a vehicle by the dealer to the customer.

Trade-in Transactions

1. A parent wants to trade-in their vehicle against their child's deal. Is it permitted?
 - Yes. Section 526.5(f) – ANY allowance for any tangible personal property accepted in part payment by a vendor on the purchase of tangible personal property and intended for resale shall be excluded when arriving at the receipt subject to tax.

2. A friend wants to trade-in their vehicle against another friend's deal. Is it permitted?
 - Yes, the same as above.

3. A customer wants to trade-in their golf cart and clubs against the deal. Is it permitted?
 - Yes, “any” means ANY

Trade-in Transactions Continued

4. On a retail purchase, a customer wants to trade-in their lien-free vehicle. They, of course, are entitled to a trade-in for the full value of their vehicle.

- If the trade-in has a loan balance, is the trade-in allowance the net equity?

NO – if the customer either pays off the loan or borrows extra money when they take out a new loan to pay off the balance due on the new car, the amount of the trade-in would not be affected – see page three of TSB-A-10(53)S.

- If the customer owns the trade-in outright and as part of the trade-in wants to “cash out” part of their equity, is the trade-in allowance the net equity?

If you follow the logic above, the answer is PROBABLY NO. It is the equivalent of the individual borrowing against their vehicle in one transaction and then trading it. Since this is typically done in a single transaction, the State may argue that only the equity is available, but my opinion is that would be incorrect. Show the amount of the “cash out” as a lien payoff, **if you agree with this interpretation.**



Trade-in Transactions Continued

5. Customer's current vehicle is leased with a current value of \$12,000 with a buyout option of \$10,000. If the customer assigns their right to buyout to the dealer, is the trade-in allowance the net equity?
 - New York State YES – however, see a related issue in the last page of TSB-A-95(31)S.

https://www.tax.ny.gov/pdf/advisory_opinions/sales/a95_31s.pdf



Trade-in Transactions Continued

6. In a lease, a customer wants to trade-in their vehicle that is lien free. IF THE DEALER IS THE LESSOR, the vehicle being traded in serves as a Cap Cost Reduction which reduces the amount subject to tax
- If the trade-in has a loan balance, is the trade-in allowance the net equity?

YES – the loan, to be satisfied, must increase the Cap Cost. ANYTHING which serves to increase the monthly payment also serves to increase the amount subject to tax.

Trade-in Allowances

- In a lease, a customer wants to trade-in his vehicle that is lien free. IF THE DEALER IS THE LESSOR, the vehicle being traded in serves as a Cap Cost Reduction which reduces the amount subject to tax.
 - If the trade-in has a loan balance, is the trade-in allowance the net equity?
- Answer:
 - YES – the loan, to be satisfied, must increase the Cap Cost. ANYTHING which serves to increase the monthly payment also serves to increase the amount subject to tax.

Trade-ins: Sales Tax Bulletin ST-860

- Example: A customer decides to buy a vehicle from you for \$22,500. You agree to take their current vehicle as a trade-in and give a \$4,500 credit for the old vehicle. You would calculate the taxable amount of the sale as follows:

Original price	22,500
Trade-in	<u>(4,500)</u>
Sale price subject to tax	<u>18,500</u>

- Any portion of the trade-in allowance that is not applied directly against the price of the item being purchased is not allowed as a credit against the price of another item purchased at a later date or from another seller.
- Example: Assume the same facts as in the example above except that only \$2,500 of the trade-in allowance is applied against the purchase price of the new vehicle, with the other \$2,000 given to the purchaser in cash. The \$2,000 cash cannot be applied as a trade-in allowance against any later purchase from you or from another seller.

Trade-ins – Buying More than One Vehicle

- What if you have one buyer's order for two vehicles with a single vehicle to be traded against both vehicles?
- Try to write and bill as one order.



Out-of-State Transactions



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Who is a New York Resident for Sales Tax Purposes?

- For sales tax purposes, an individual is a **resident** of New York State and of a local taxing jurisdiction if the individual has a permanent place of abode within the jurisdiction.
- **A permanent place of abode is a dwelling place maintained by an individual, or maintained on his or her behalf, whether or not owned by the individual, on other than a temporary or transient basis. The dwelling may be a house, apartment, flat, trailer, mobile home, houseboat, or any other premises. It also may be a room, including a room in a hotel, motel, boarding house, club, or a room at a residence hall operated by an educational, charitable, or other institution.**
- **A permanent place of abode also includes housing provided by the Armed Forces of the United States, whether the housing is located on or off a military base or reservation.**

NYSDTF Publication 750 A Guide to Sales Tax in New York: <https://www.ny.gov/sites/ny.gov/files/atoms/files/GuideToSalesTaxInNYS.pdf>



Reciprocal Credit for Sales or Use Taxes Paid to Another State

- Customers may be considered residents for sales and use tax purposes even if they are not for personal income tax purposes.
- The following are **residents for sales and use tax purposes** even if they are not residents for income tax purposes:
 - a person maintaining a permanent place of abode in New York who does **not** spend more than 183 days a year in the state;
 - A college student at a New York school; or
 - a member of the military stationed in New York.
- In addition, you are a resident of New York, and of a New York county and/or city, if you engage in any manner in carrying on any employment, trade, business, or profession in such location.

Out-of-State Transactions

- **Dual residency is irrelevant!**
- It is a concept applied in cases involving **INCOME TAX**.
- The customer and the dealer cannot pick the state to do a transaction for sales tax purposes.
- **If there is a permanent place of abode in New York (and delivery of the vehicle is taking place in New York), New York Sales tax is due.**
 - A home or vacation home
 - A rental
 - A room set aside in a relative's house
 - A room set aside in a YMCA



Form DTF-804

- A credit against New York tax due may be available if **all** of the following apply:
 - The buyer was required to pay tax to another state on the purchase;
 - That state provides a reciprocal tax credit that is similar to the tax credit for New York State; **and**
 - the buyer is not entitled to a refund of that tax from the other state.
- If all these conditions are met, the buyer may be granted a credit against the use tax due to New York State for the tax paid (or a portion of it) to the other state.
- **Per Tax Bulletin TB-ST-765: When a reciprocal credit is not allowed you may end up paying money to both New York State and to the other state.**

https://www.tax.ny.gov/pdf/tg_bulletins/sales/b15_765s.pdf



Form DTF-804

Motor Vehicles				
Full Rate Eligible for Credit	No New York State Credit Currently Allowed			
Arizona	Alabama	Iowa	New Hampshire	Rhode Island
California	Alaska	Kansas	Nevada	South Dakota
<u>Florida</u>	Arkansas	Kentucky	<u>New Jersey</u>	Tennessee
Hawaii	Colorado	Louisiana	New Mexico	Texas
Massachusetts	<u>Connecticut</u>	Maine	North Carolina	Utah
Michigan	Delaware	Missouri	North Dakota	Vermont
South Carolina	District of Columbia	Minnesota	Ohio	Virginia
Wyoming	Georgia	Mississippi	Oklahoma	Washington
	Idaho	Montana	Oregon	West Virginia
	Illinois	Nebraska	<u>Pennsylvania</u>	Wisconsin



Out-of-State Transactions

DTF-820 Certificate of Nonresidency

- A false declaration is PUNISHABLE BY UP TO ONE YEAR IN PRISON AND A FINE UP TO \$10,000.
- Box 1 or Box 2 of Form DTF-820 may apply.
 - By marking box 1, the purchaser is claiming an exemption from both the state and local sales taxes. If purchasing a motor vehicle, the seller must write “Exempt: out-of-state purchaser” on Form MV-50, Retail Certificate of Sale, as explained in TSB-M-95(2)S, Sales of Motor Vehicles to Nonresidents and Motor Vehicle Registration by Nonresidents.

Box #1: This purchase is exempt from both the New York State and any local sales taxes because:

- I am not a resident of New York State;
- I do not have a permanent place of abode in this state (see definition in instructions);
- I am not carrying on any employment, trade, business, or profession in this state in which the motor vehicle, trailer, or vessel will be used; and
- I am not registering this motor vehicle, trailer, or vessel in New York State. (This includes any temporary registration.)

https://www.auctionsinternational.com/auxiliary/downloads/DTF_Form/dtf_fill_in.pdf



Out-of-State Transactions

DTF-820 Certificate of Nonresidency

- If box 2 is marked, based on the information provided by the purchaser, use the Sales Tax Jurisdiction and Rate Lookup Service on DTF's website to determine the correct state and local tax rate for New York State addresses. You may also use Publication 718, New York State Sales and Use Tax Rates by Jurisdiction, for this determination.

Box #2 This purchase is exempt from the local sales tax imposed by the jurisdiction where this purchase is made because:

- I am not a resident of that jurisdiction;
- I do not have a permanent place of abode in that jurisdiction (see definition in instructions); and
- I am not carrying on any employment, trade, business, or profession in which the motor vehicle, trailer, or vessel will be used in that jurisdiction.

Note: When box 2 is marked, the seller must collect both the New York State and local sales and use taxes in effect in the purchaser's resident jurisdiction as indicated below (this address may differ from the mailing address provided above).



Out-of-State Transactions

DTF-820 Certificate of Nonresidency

If **Box #2** is marked, based on the information provided by the purchaser, use the Sales Tax Jurisdiction and Rate Lookup Service on DTF's website to determine the correct state and local tax rate for New York State addresses. You may also use Publication 718, New York State Sales and Use Tax Rates by Jurisdiction, for this determination.

<https://www8.tax.ny.gov/JRLA/jrlaStart>

<https://www.tax.ny.gov/pdf/publications/sales/pub718.pdf>





**Mr. B owns a house
in Montauk and a
Co-op in Manhattan**



**Buys in
Manhattan**

**Buys in
Nassau**

**Buys in
Suffolk**



Out-of-State Transactions

Trade/Business/Employment/Profession Standard

- **Trade or Business:** An out-of-state business, doing business in New York, taking delivery of a car in New York is subject to New York sales tax on the vehicle. Simply stated, the DTF-820 cannot be signed.
 - This creates a fiasco with New Jersey, Connecticut, and Pennsylvania. These states do not have reciprocity with New York. Businesses in these states, when getting the vehicle registered in their home state, would not get a credit for taxes paid to New York. Dealerships near these bordering states are in a CATCH-22. Please refer to NY Form DTF-804.
- **Profession:** If you have a doctor, dentist, lawyer, accountant, etc. from out-of-state who tell you they will be using the vehicle in their business which includes New York...see Trade or Business above.
- **COMMUTATION IS NOT carrying on employment in New York.**
- However, if a travelling salesman from out-of-state tells you they will be using the vehicle to visit customers in New York, see Trade or Business above.

Application of Sales and Use Tax to Motor Vehicles

- If a customer is a New York resident who wants to register the vehicle to THEIR business in New Jersey, New York tax would be due.
- Storing the vehicle in New York would cause tax to be due even if 100% of the use is for commutation.

https://www.tax.ny.gov/pdf/memos/sales/m09_4s.pdf

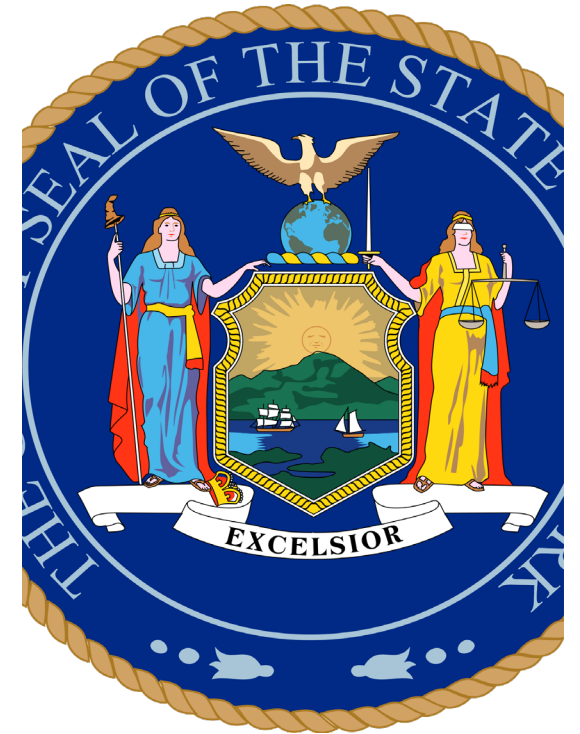


Dealership Responsibilities

If, in the course of processing the deal, dealer becomes aware of a New York connection such as:

- Address on a personal check
- Service history on customer's prior vehicle
- Consistent credit card usage in the New York area
- Local employment such that a daily commute is implausible
- Local area code telephone numbers

Dealer must take steps to verify **NO PERMANENT PLACE OF ABODE**, including internet searches and additional signed statements by the customer explaining the New York connection(s).



Out-of- State Deals: Best Practices

- Add the DTF-820 to the delivery worksheet checklist.
- Add to your commission agreement that incorrect/incomplete out-of-state deals are non-commissionable.
- Explain to the customer the CIVIL AND CRIMINAL PENALTIES for signing a false affidavit.
- Reinforce these rules by explaining the requirements in meetings with Sales and F&I personnel.
- Make the Sales Manager responsible for out-of-state deal compliance.
- Make the biller responsible for assuring compliance and the authority to get a deal corrected.
- As an owner, ask to review all out-of-state deals on a monthly basis.
- Enter New York as the garaging address on sales and lease contracts, when applicable – this can blow up a deal.

Miscellaneous

- **Rebates**
- **Goodwill Repairs**



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Rebates

Rebates:

- Customer rebates, assigned to the dealership, are always taxable.
- Manufacturer incentives to the dealer are not sales taxable.



A Guide to Sales Tax for Automobile Dealers : Rebates page 12

Goodwill Repairs

- Use tax is due on any parts used by the dealership unless you can properly document that the repairs are the result of a “comeback.”
- Review items charged to policy work or customer accommodation accounts for parts used and not charged to customer repair orders.
- Repair orders on “comebacks” should reference the original repair order to avoid being subject to use tax.

Goodwill Repairs

When a dealer, solely at its own discretion, makes a repair at no charge that is not covered under a warranty or service contract, the dealer would owe use tax on any property transferred as part of this service if the property was originally purchased for resale.

However, if the dealer is required by the manufacturer or other third party, or by state law, to make the repair at no charge, the amount reimbursed to the dealer by the third party is not subject to tax, and the dealer would not owe use tax on any property transferred as part of the services.



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QUESTIONS

Thank you for attending today's webinar.