



# Joint Election Between Vendor and Lender to Designate Entitlement to Claim Sales Tax Bad Debt Refund or Credit

**This form is valid only for claims for refund or credit filed before July 1, 2010.**

All relevant entries must be completed and this election form must be signed by the parties. This election cannot be amended or revoked except by filing a new election signed by all parties (*see instructions*).

Name of vendor		Name of private label credit card lender (or lender's affiliate or assignee)	
Street address		Street address	
City	State	ZIP code	City State ZIP code
<i>Certificate of Authority</i> number	Employer identification number (EIN) (if different)	<i>Certificate of Authority</i> number	Employer identification number (EIN) (if different)

Former Tax Law section 1132(e-1) (repealed effective July 1, 2010) provided that where a *private label credit card* account is held by a *lender* and all or a portion of a debt owed the lender is charged off by the lender as worthless, **either** the vendor **or** the lender (or the lender's affiliate or assignee) may claim a refund or credit for the portion of the sales tax previously remitted by the vendor that is attributable to the worthless account. For purposes of this election, the vendor is the entity that made the sales subject to sales tax and the private label credit card lender is the entity that charged off the account for federal income tax purposes.

**1. Designation of party to claim bad debt refund or credit.** Pursuant to this election form, the vendor and the private label credit card lender hereby agree that \_\_\_\_\_ has the right to claim the New York State sales tax bad debt refund or credit with respect to the accounts described below.  
*(insert name of vendor or lender)*

**2. Accounts.** The accounts covered by this election include any and all accounts and contracts, currently in existence or created in the future pursuant to the contract between the vendor and the private label credit card lender, found to be worthless and charged off by the private label credit card lender on or after \_\_\_\_\_, that:  
*(mm/dd/yy)*

- originated with the private label credit card lender pursuant to the private label credit card lender's contract(s) directly with the vendor who reported the tax; or
- have been purchased by the private label credit card lender from the vendor pursuant to an agreement directly with the vendor who reported the tax.

**3. Date of expiration of contract between vendor and private label credit card lender.** Enter the date of expiration of the contract between the vendor and the private label credit card lender pursuant to which the accounts covered by this election form originate: \_\_\_\_\_.  
*(mm/dd/yy)*

**4. Agreement to waiver of secrecy provisions and sharing of information.** In executing this election form, the vendor and the private label credit card lender (or any other party designated to claim the refund or credit) each agree that the Tax Department may disclose any relevant confidential information obtained from any source to all the parties involved in the application for the refund or credit, including any party collecting on the account on behalf of any party, in order to determine the eligibility for and validity of any refunds or credits claimed or any amounts due.

**5. Agreement to furnish all requested documentation.** In executing this election form, the vendor and the private label credit card lender (or any other party designated to claim the refund or credit) each agree to furnish the Tax Department with any and all documentation necessary to support the refunds or credits claimed.

**6. Certification.** This election cannot be amended or revoked except by filing a new election signed by all relevant parties. I certify that the information on this election form is true, correct, and complete. I further certify that all the applicable conditions of former Tax Law section 1132(e-1)(3) have been met. I make these statements with the knowledge that knowingly making a false or fraudulent statement on this document is a misdemeanor under Tax Law section 1817 and a Class E felony under Penal Law section 175.35, punishable by imprisonment for up to four years and a fine of up to \$50,000 for an individual or \$250,000 for a corporation. I understand that the Tax Department is authorized to investigate the validity and accuracy of any information entered on this form.

Type or print name and title of owner, partner, or other authorized person of vendor	
Signature of owner, partner, or other authorized person of vendor	Date
Type or print name and title of owner, partner, or other authorized person of private label credit card lender (or lender's affiliate or assignee)	
Signature of owner, partner, or other authorized person of private label credit card lender (or lender's affiliate or assignee)	Date

**7. Amendment or revocation of a previous election and consent to new election.** If this election is an amendment or revocation of a previously filed election, enter the information for the party previously designated to claim the bad debt credits or refunds related to the subject accounts. The authorized representative of this party must sign in the *Consent to New Election* section below.

Name		
Street address		
City	State	ZIP code
Certificate of Authority number	Employer identification number (EIN) (if different)	

**Consent to New Election** — The party previously designated to claim the bad debt credits or refunds related to the accounts described above hereby consents to the new election as provided in this form. I certify that I am authorized to execute this consent on behalf of the named party. I make these statements with the knowledge that knowingly making a false or fraudulent statement on this document is a misdemeanor under Tax Law section 1817 and a Class E felony under Penal Law section 175.35, punishable by imprisonment for up to four years and a fine of up to \$50,000 for an individual or \$250,000 for a corporation. I understand that the Tax Department is authorized to investigate the validity and accuracy of any information entered on this form.

Type or print name and title of owner, partner, or other authorized person	
Signature of owner, partner, or other authorized person	Date

**General information**

**Note:** This form is valid only for claims for refund or credit filed before July 1, 2010. No refund or credit may be claimed under former Tax Law section 1132(e-1) on or after July 1, 2010, regardless of the date of the underlying sales tax transaction or the date the bad debt is written off.

For a vendor or lender to be eligible to claim a refund or credit of sales tax, the following conditions and requirements must be met:

- the vendor has reported and paid the sales tax;
- no refund or credit was previously claimed or allowed on any portion of the account;
- the account is worthless, in whole or in part, and has been charged off by the private label credit card lender for federal income tax purposes or, if the lender is not required to file a federal income tax return, the account has been charged off in accordance with generally accepted accounting principles;
- any contract between the vendor and the private label credit card lender under which the private label credit card lender has the right to the account contains an irrevocable relinquishment of all rights to the account by the vendor and a transfer of those rights to the private label credit card lender, except for the right to the bad debt refund or credit if retained by the vendor;
- the lender and the vendor have filed this joint election form with the Tax Department designating which of those parties is entitled to claim the refund or credit;
- any party designated in this election form to claim the refund or credit is deemed to be a vendor for purposes of Tax Law Article 28 and the designated party must comply with all of the obligations of a vendor including registering with the Tax Department as a person required to collect tax, if not already registered, and maintaining records; and
- the party electing to claim the refund or credit files the claim in a manner prescribed by the Tax Department.

For purposes of reviewing and processing any refund or credit claim made pursuant to this election form, the Tax Department will recognize only the entity designated herein as having the right to receive any refund or credit that may be approved. If the designated entity has elected to have the Tax Department pay the amount of any approved refund or credit to either its affiliate (as defined in Internal Revenue Code section 1504) or its assignee, it must so notify the Tax Department. The affiliate or assignee must be registered with the Tax Department as a person required to collect sales tax pursuant to Tax Law section 1134.

An election made pursuant to former Tax Law section 1132(e-1) cannot be amended or revoked except by filing a new election signed by all parties. The most recently filed election will govern.

**Authority to sign Form ST-55**

This election form must be signed by an owner, officer, partner or other duly authorized representative of the vendor and the private label credit card lender (or lender’s affiliate or assignee). Other duly authorized representatives include persons appointed to act on behalf of a party under a valid power of attorney or pursuant to a corporate resolution.