

Changes Related to the Application Fees for Retail Dealers and Vending Machine Operators Selling Cigarettes and Tobacco Products

Part C of Chapter 58 of the Laws of 2009 amended Article 20 of the Tax Law in relation to the annual application fees for retail dealers and vending machine operators selling cigarettes and tobacco products. Beginning with the applications for the 2010 calendar year, application fees will be calculated based on the gross sales of each retail place of business or vending machine. Additionally, effective September 1, 2009, penalties are increased for violations by retail dealers and vending machine operators selling cigarettes and tobacco products.

Retail dealers

Prior to 2010, the application fee for a retail dealer of cigarettes and tobacco products was \$100 per calendar year for each retail location. Beginning with the 2010 calendar year, the application fee will be based on the gross sales of the business at each retail location for the previous calendar year. The following application fees apply beginning in calendar year 2010:

Gross sales for the previous calendar year	Application fee
less than \$1 million	\$1,000
at least \$1 million but less than \$10 million	\$2,500
\$10 million or more	\$5,000

Gross sales include **all** sales of goods and services at each retail location and should reflect the total amounts charged to customers. A retail location with no gross sales in the previous calendar year is subject to the lowest application fee of \$1,000.

Example: In September 2009, a retail dealer is applying for certificates of registration for calendar year 2010 for two retail locations where cigarettes and tobacco products are sold. To determine the correct application fee, the retail dealer must determine the gross sales for each location in 2008 – the previous calendar year. Location 1 is a convenience store that primarily sells motor fuel, cigarettes and grocery items. Location 1 generated gross sales of \$2 million in 2008 from sales of all of these products. Location 2 began business in 2009 and, therefore, had no gross sales for 2008. The application fee for Location 1 is \$2,500. The application fee for Location 2 is \$1,000.

Vending machine operators

Prior to 2010, the application fee of a vending machine used for the sale of cigarettes and tobacco products was \$25 per calendar year. Beginning with the 2010 calendar year, the application fee will be based on the gross sales of each vending machine in the previous calendar year. The following application fees apply beginning in calendar year 2010:

Gross sales for the previous calendar year	Application fee
less than \$100,000	\$250
at least \$100,000 but less than \$1 million	\$625
\$1 million or more	\$1,250

A vending machine with no gross sales in the previous calendar year is subject to the lowest application fee of \$250.

Applications for registration

For additional information, see the instructions for the following forms, available at the Tax Department's Web site (www.nystax.gov):

- Form DTF-716, *Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes and Tobacco Products*.
- Form DTF-719, *Renewal Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes and Tobacco Products*, to register each retail location for the following year.

Increased penalties for failing to register

Any retail dealer of cigarettes and tobacco products that fails to register a retail location or violates any other provisions in section 480-a of the Tax Law may, after due notice and opportunity for a hearing, be subject to a civil fine. Violations include, but are not limited to, failure to obtain and display a certificate of registration or selling cigarettes or tobacco products when the certificate of registration has been suspended. Beginning September 1, 2009, fines may be imposed as follows:

	Not less than	Not to exceed
First violation	\$5,000	\$25,000
Second or subsequent violation within three years of a first violation	\$10,000	\$35,000

Any vending machine operator that fails to register or violates any other provisions in section 480-a of the Tax Law may, after due notice and opportunity for a hearing, be subject to a civil fine. Beginning September 1, 2009, fines may be imposed as follows:

	Not less than	Not to exceed
First violation	\$750	\$2,000
Second or subsequent violation within three years of a first violation	\$2,000	\$6,000

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. 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 presented in a TSB-M.