



## **Reduced Application Fees for Retail Dealers and Vending Machine Operators Selling Cigarettes and Tobacco Products**

The annual registration fees have been reduced to \$300 for each retail location and \$100 for each vending machine.

Part T of Chapter 61 of the Laws of 2011 amended Article 20 of the Tax Law to reduce the annual registration fees for retail dealers and vending machine operators (VMOs) selling cigarettes and tobacco products. The graduated fees established in 2009 have been replaced with a flat annual fee of \$300 per retail location and \$100 per vending machine.

Beginning with the 2010 calendar year, the fees had been changed to be based on a graduated scale determined by gross sales. However, a temporary restraining order (TRO) went into effect September 16, 2009, preventing the implementation of the increased application fees. Under the TRO, retail dealers and VMOs have been allowed to pay a registration fee of \$100 for each retail location or vending machine for calendar years 2010 and 2011.<sup>1</sup>

The new flat annual fees are retroactive to calendar years 2010 and 2011, so any retail dealer or VMO who paid a fee greater than the new flat fee will be issued a refund for those calendar years. Any overpayment may be used to offset any other taxes or liabilities administered by the Tax Department (e.g., past-due support, defaulted student loans, tax warrant judgment debt, etc.).

Any retail dealer who paid the \$100 fee allowed under the TRO will be issued a notice and demand to collect the difference in the new fee. If there is an overpayment in one year and an underpayment in the other, the two amounts will be netted. Certificates of Registration for 2012 will not be issued to retail dealers or VMOs if their 2010 and 2011 outstanding registration fees are not paid in full.

### **Examples:**

*Example: In 2010, a retail dealer with one location paid \$1,000 for a certificate of registration. In 2011, the retail dealer also paid \$1,000. The retail dealer has an overpayment of \$700 (\$1,000 - \$300) for each year. Provided there are no outstanding liabilities, the retail dealer will be issued a refund of \$1,400 (\$700 + \$700).*

<sup>1</sup> See TSB-M-09(7)M, *Changes Related to the Application Fees for Retail Dealers and Vending Machine Operators Selling Cigarettes and Tobacco Products*; N-09-21, *Special Instructions for Retail Dealers and Vending Machine Operators Selling Cigarettes and Tobacco Products*; and N-10-11, *Tax Department to Issue Certificates of Registration for Cigarettes and Tobacco Products for 2011*.

*Example: In 2010, a retail dealer with one location paid \$100 for a certificate of registration. In 2011, the retail dealer also paid \$100. The retail dealer owes a balance of \$200 (\$300 - \$100) for each year. The retail dealer will be issued a notice and demand for \$400 (\$200 + \$200) to collect the difference.*

*Example: In 2010, a retail dealer with one location paid \$1,000 for a certificate of registration. In 2011, the retail dealer paid \$100. The retail dealer overpaid \$700 (\$1,000 - \$300) in 2010 and underpaid \$200 (\$300 - \$100) in 2011. Provided there are no outstanding liabilities, the retail dealer will be issued a refund of \$500 (\$700 - \$200).*

### **Refunds**

The Tax Department will issue refunds and retail dealers and VMOs are not required to file refund applications. If you haven't been contacted by the department or received your refund by September 1, 2011, you can contact us at (518) 485-7652.

### **Interest, penalties and hearing rights**

No interest will be paid on refunds. However, interest and penalties may apply if the amount shown on a notice and demand is not paid within the time specified. Retail dealers do not have any rights to a formal hearing related to a notice and demand described above.

### **Revised application**

Form DTF-716, *Application of Retail Dealers and Vending Machines for Sales of Cigarettes and Tobacco Products* (4/11), is available on the Tax Department's Web site ([www.tax.ny.gov](http://www.tax.ny.gov)). The (6/10) version of Form DTF-716 will no longer be accepted.

**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.