

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-89 (6)M
Cigarette Tax
November 30, 1989

Subject: 1989 Cigarette Tax Law Change

1. Cigarette tax rate increase and floor tax due.
2. Sales tax implications.

1. Effective May 1, 1989, an amendment to the Cigarette Tax Law, Article 20, increased the excise tax on cigarettes from 21 cents to 33 cents per pack of 20 cigarettes. This means that the joint New York State - New York City cigarette tax rate increased from 29 cents to 41 cents per pack of 20 cigarettes.

The law also imposed a floor tax on all stamped cigarettes and unaffixed cigarette tax stamps in the possession of cigarette agents and wholesale and retail dealers. The floor tax required the taking of an inventory of all stamped cigarettes on hand as of the close of business on April 30, 1989. All cigarette agents and dealers with stamped cigarettes were required to file a floor tax return and pay a floor tax of 12 cents for each pack of 20 cigarettes stamped at the old 21 cent or 29 cent rate. Cigarette agents were also required to account for and pay a floor tax on all unaffixed cigarette tax stamps (bearing the old rate(s)) in their possession. The floor tax return and payment were required to be filed on or before June 15, 1989. The duplicate floor tax return and supporting inventory documents must be retained for a period of three years. The cigarette floor tax returns are subject to audit by this department.

Failure to have filed a floor tax return or pay the tax due will result in penalties and interest under Article 20 of the New York State Tax Law and may result in criminal penalties under Article 37 of the Tax Law.

2. Until June 1, 1989, the New York State and local sales and use tax was computed on the retail price exclusive of the amount representing New York State and New York City cigarette tax.

On or after June 1, 1989, all vendors in the state must include the 33 cents per pack state cigarette tax in the retail price when computing the sales tax. Vendors in New York City must exclude the 8 cents per pack representing the city cigarette taxes when computing the sales tax.