



## Important Notice

February 2002

# New York State Cigarette Tax Increase and Cigarette Floor Tax Due

- ▶ **Effective April 3, 2002, the New York State excise tax on cigarettes increases 39 cents (from \$1.11 to \$1.50) per pack of 20 cigarettes.**
- ▶ **Retail dealers, wholesale dealers, and agents must take a physical inventory of all stamped packs of cigarettes on hand as of the close of business April 2, 2002. Agents must also take a physical inventory of all unaffixed cigarette tax stamps and unstamped packs of cigarettes on hand as of the close of business April 2, 2002.**
- ▶ **Retail dealers, wholesale dealers, and agents must file a cigarette floor tax return by June 20, 2002, and pay a cigarette floor tax.**

### Cigarette excise tax increase (effective April 3, 2002)

	New York State (outside New York City)		Joint New York State/ New York City		Cigarette excise tax increase (floor tax due)
	Old rate	New rate	Old rate	New rate	
Pack of 10 cigarettes	\$0.555	\$0.75	\$0.595	\$0.79	\$0.195
Pack of 20 cigarettes	\$1.11	\$1.50	\$1.19	\$1.58	\$0.39
Pack of 25 cigarettes	\$1.3875	\$1.875	\$1.4875	\$1.975	\$0.4875

### Inventory

Retail dealers, wholesale dealers, and agents must take a physical inventory of all stamped packs of cigarettes on hand as of the close of business April 2, 2002. Agents must also take a physical inventory of all unaffixed stamps and unstamped packs of cigarettes on hand as of the close of business April 2, 2002. These inventories must be reported on Form CG-11, *Cigarette Tax Floor Tax Return*. A cigarette floor tax will be due on the stamped packs of cigarettes and the unaffixed stamps.

Retail dealers, wholesale dealers, and agents who have cigarettes stored, kept, or offered for sale at more than one business location must keep the original inventory report at each location for inspection.

For audit purposes, retail dealers, wholesale dealers, and agents must keep all records of the physical inventory used to arrive at the cigarette floor tax due.

**Note:** Sellers must take their own physical inventory. Random inventory counts made by Tax Department personnel for statistical purposes may not be used.

### Attention: Vending machine operators

Each vending machine operator should take as many physical inventories as possible with available personnel. If it is impossible to take a physical inventory of stamped packs of cigarettes in each vending machine on location, the vending machine operator may pay a cigarette floor tax on one-half of the **normal fill capacity** for those machines that cannot be physically inventoried on April 2, 2002. *Normal fill capacity* means the inventory as indicated on the individual inventory record maintained for each vending machine on location. For example, if the normal fill capacity of a machine is 600 packs of cigarettes, the department will permit the vending machine operator to report a tax based on one-half of 600, or 300 packs, at 39¢ for a cigarette floor tax of \$117.00 for that machine.

The alternative method outlined above only applies to vending machines on location. A physical inventory must be taken of all cigarettes stored elsewhere.

## Cigarette floor tax

Retail dealers, wholesale dealers, and agents must file Form CG-11, *Cigarette Tax Floor Tax Return*, by June 20, 2002, and pay a cigarette floor tax on each stamped pack of cigarettes. Cigarette tax agents must also pay the cigarette floor tax on any unaffixed cigarette tax stamps.

Retail dealers, wholesale dealers, and agents who have cigarettes stored, kept, or offered for sale at more than one business location must file one consolidated cigarette floor tax return covering all locations, and report the inventory of stamped packs of cigarettes at each location on Schedule A of Form CG-11.

The Tax Department has mailed forms and instructions with this notice to those taxpayers that the department has identified as potential cigarette floor tax filers.

If you are required to file a return but have not received one, contact the Tax Department at 1 800 972-1233. You can also obtain the return by calling the department's automated fax-on-demand system at 1 800 748-3676 or by accessing the department's Web site [www.tax.state.ny.us](http://www.tax.state.ny.us). Failure to receive a cigarette floor tax return is not an acceptable excuse for failure to file and remit any cigarette floor tax due.

## Floor tax payment

If your cigarette floor tax liability is \$200 or less, the entire amount is due by June 20, 2002.

If your cigarette floor tax liability is more than \$200, you may make an election on Form CG-11 to pay in two installments. If you make this election, the first installment is due with the filing of the return by June 20, 2002. The first installment must be at least \$200, but cannot be less than 25% of the total cigarette floor tax liability. A notice of balance due will be sent to those taxpayers required to remit a second and final installment. The second and final installment must be paid by October 21, 2002. However, the Tax Department may require payment of the final installment at any time prior to October 21, 2002, if the department believes payment would be jeopardized by delay.

*For example:*

- *A taxpayer with a cigarette floor tax liability of \$110 would be liable for the full payment by June 20, 2002.*
- *A taxpayer with a cigarette floor tax liability of \$440 would be liable for the first installment of at least \$200 by June 20, 2002. Any remaining amount must be paid by October 21, 2002.*
- *A taxpayer with a cigarette floor tax liability of \$10,000 would be liable for a minimum payment of at least \$2,500 by June 20, 2002. Any remaining amount must be paid by October 21, 2002.*

## Penalty and interest

Failure to file a cigarette floor tax return or to pay the appropriate tax due by June 20, 2002, will subject you to the imposition of interest and civil penalties under Article 20 of the Tax Law, and may result in criminal penalties under Article 37 of the Tax Law.

If you elect to pay your tax in installments and you fail to pay the correct amount of your first installment by June 20, 2002, the entire amount of tax will be due immediately, and interest and penalty will accrue on the entire amount that remains unpaid. If you paid the correct amount of the first installment on time, but did not pay the second and final installment by October 20, 2002, interest and penalty will accrue from that date on the amount that remains unpaid.

Penalty is imposed on a **cigarette tax agent** at the rate of 10% of the tax due for the first month or any fraction of a month, plus 1% of the tax due for each subsequent month or fraction of a month in which a return remains unfiled or the tax remains unpaid, up to a maximum of 30%.

Penalty is imposed on **any retail or wholesale dealer** for failure to pay on time at the rate of 50% of the tax due for the first month or any fraction of a month, plus 1% of the tax due for each subsequent month or fraction of a month in which the tax remains unpaid.

If a return is not filed within 60 days of the due date, the minimum penalty imposed is the lesser of the tax due or \$100. However, in no instance may this minimum penalty be less than the penalty computed using the paragraphs above.

Interest is computed at the rate set by the Commissioner of Taxation and Finance and is compounded daily. It is computed from the day the tax was due until the day the tax is paid. If you need help figuring interest, call the New York State Business Tax Information Center at 1 800 972-1233.