



Instructions for Form FT-946/1046

Motor/Diesel Motor Fuel Tax Refund Application

Any person who purchased motor/diesel motor fuel on which the fuel excise tax was passed through and who used the fuel in a nontaxable manner may be entitled to a refund. This form should **not** be used to apply for a refund for the following, instead:

- An omnibus carrier must use Form TP-164.14 (motor fuel) or Form FT-1006 (diesel motor fuel) to obtain a refund for motor/diesel motor fuel consumed in an omnibus in this state.
- A taxicab licensee must use Form TP-164.8 (motor fuel) or Form FT-1011 (diesel motor fuel) to obtain a refund for motor/diesel motor fuel consumed in a taxicab in this state.
- An out-of-state dealer not registered as a distributor of motor/diesel motor fuel in New York State who purchased fuel in New York State must use Form FT-947 (motor fuel) or Form FT-1008 (diesel motor fuel).
- A registered 12-A distributor must claim the credit or refund on Forms PT-100, PT-101 (motor fuel), PT-102, PT-106 or PT-200 and PT-201 for diesel motor fuel.
- A commercial fisherman must claim refund of the motor/diesel motor fuel tax on Form AU-631, *Application for Reimbursement of Taxes Paid on Fuel Used in a Vessel Engaged in Commercial Fishing*.
- A farmer must claim a refund of the motor fuel tax on Form FT-420, *Refund Application for Farmers Purchasing Motor Fuel*.

Box A — Nontaxable use (off-highway) is the use of the fuel in any manner other than in the operation of a motor vehicle upon or over the highways of New York State **or** in the operation of a pleasure or recreational motor boat upon or over the waterways of this state including waterways bordering on the state.

If you checked Box A, also check the box that indicates your type of operation and enter any other requested information.

Box B — (kero-jet fuel only) – Any person who purchased kero-jet fuel under the refund assignment policy may be entitled to a refund of the diesel motor fuel tax that was passed through to that person.

Sales to nonairline aircraft operators – A refund is allowed for sales of kero-jet fuel that are made from your fixed base facility delivered directly into the fuel tank of the nonairline operator's aircraft, exclusively consumed in the operations of the aircraft.

Box C — Nontaxable sales to exempt purchasers – Any retail vendor or supplier who is not a registered 12-A distributor, and has purchased motor/diesel motor fuel on which the fuel excise tax has been passed through and has subsequently sold the fuel to an exempt purchaser (without the tax passed through) may claim a reimbursement.

The following are exempt purchasers:

New York State and municipalities – Departments and agencies of New York State or any political subdivision thereof, including school and fire districts.

United States – Includes any department, office, bureau or any other agency or instrumentality of the government of the United States.

Airlines (kero-jet fuel only) – An airline includes: (a) an air carrier of persons, property and mail operating under a Certificate of Public Convenience and Necessity issued by the Federal Aviation Administration, or a foreign air carrier holding an equivalent certificate issued by the carrier's respective sovereign government; (b) an air carrier holding a Certificate for All-Cargo Air Service issued by the Federal Aviation Administration; and (c) an air taxi operator, who is classified by the Federal Aviation Administration as a "commuter air carrier" or who (i) performs at least five round trips per week between two or more points and publishes flight schedules which specify the times and days of the week and places between which such flights are performed or (ii) transports mail by air pursuant to contract with the United States Postal Service.

For heating purposes (diesel motor fuel only) – Any retail vendor who is not a registered 12-A distributor, who purchased diesel motor fuel on which the diesel motor fuel tax has been passed through to the retail vendor, and who sold the fuel for heating purposes in containers of 10 gallons or less may be entitled to a reimbursement of the diesel motor fuel tax.

Exempt hospital – All nontaxable sales (Box C) to hospitals apply to motor fuel only. Exempt hospitals (Box D) may apply for reimbursement for both motor and diesel motor fuel. An exempt hospital has a current operating certificate issued by the New York State Department of Health under section 2805 of the Public Health Law or by the New York State Department of Mental Hygiene pursuant to the authority of Article 31 of the Mental Hygiene Law, and is qualified as an exempt organization under section 1116(a)(4) of the Tax Law and has a valid Exempt Organization Certificate (Form ST-119) issued by the New York State Department of Taxation and Finance. List the sales tax exemption number for all sales to or uses by exempt hospitals.

For immediate export (motor fuel tax) – Are sales to purchasers registered or licensed as a distributor or dealer of motor fuel by the taxing authority of the other state/province and who purchased motor fuel for immediate export to an identified facility in that state/province. Form FT-936, *Statement of Exportation of Motor Fuel by Purchaser*, must have been received from the purchaser.

Box D — Specific organizations entitled to receive reimbursements of the New York State motor/diesel motor fuel tax paid on the fuel consumed for their own purpose in New York State per section 289-c of the Tax Law include the following:

Voluntary ambulance services – Any voluntary ambulance service as defined in section 3001 of the Public Health Law and operating as an ambulance service with a valid ambulance service statement of registration.

Volunteer rescue squad – Any volunteer rescue squad supported in whole or in part by tax money.

Volunteer fire company or department – Any volunteer fire company or department as defined in section 3 of the Volunteer Firefighters' Benefits Law, supported in whole or in part by tax money.

Nonpublic school operator – Any nonpublic elementary or secondary school that owns or leases and operates any vehicles solely for use in educational-related activities.

Exempt hospital, New York State and the United States – See definitions in Box C instructions.

Member of exempt Indian tribe or nation – A member of an exempt Indian tribe or nation may qualify for reimbursement if the member is not purchasing fuel for resale in the operation of a business and takes delivery of the fuel on a qualified reservation primarily for use on the reservation.

Indian tribe or nation – Any of the following tribes or nations who purchased diesel motor fuel on a qualified reservation when the diesel motor fuel tax was passed through, and who used or consumed the fuel for their own purpose.

Exempt tribes or nations located in New York State:

Cayuga	Poospatuck	Shinnecock
Oneida	St. Regis Mohawk	Tonawanda Band of Senecas
Onondaga	Seneca	Tuscarora

Qualified reservations located in New York State:

Allegany	Oneida	St. Regis Mohawk	Tonawanda
Cattaraugus	Onondaga	Shinnecock	Tuscarora
Oil Spring	Poospatuck		

A member of an exempt Indian tribe or nation must complete the certification on the front of Form FT-946/1046, Motor/Diesel Motor Fuel Tax Refund Application.

If you checked Box D, also check the box applicable to the type of organization filing this application as explained above. Any organization that purchased motor/diesel motor fuel in New York State on which the motor/diesel motor fuel tax was passed through to the purchaser who used the fuel exclusively for exempt purposes may be entitled to a reimbursement of the fuel excise tax.

General Information

An application for refund must include all refunds claimed for the period beginning on the **first** and ending on the **last** day of the calendar month; however, a claimant may include two or more complete months in a single application. **In no case will a refund be made for purchases made more than two years before the date of filing the claim.**

Sales invoices, delivery tickets or monthly statements signed by the dealer and showing name and address of dealer, name and address of claimant, date of purchase (month, day and year), number of gallons and type of fuel purchased and the fact that the tax was included in the purchase price are required. **If possible, monthly statements should be presented instead of numerous**

sales invoices or delivery tickets. After the claim has been paid, the evidence of purchase will be returned if a stamped, self-addressed envelope with correct postage attached is forwarded to this office.

A claim for refund of tax paid on the fuel should be based upon the following records which (including the original records) must be kept for three years and be produced at any time for audit by the Tax Department.

- (1) A record of all purchases of motor/diesel motor fuel by the claimant and a record of the manner in which all fuel was used.
- (2) If a storage tank, drum, or container is used, the claimant must also keep a record of the quantity of motor/diesel motor fuel put into the storage tank, drum, or other container, and a record of all withdrawals.

If a transcript or summary of the record is attached to the refund claim, it will be helpful in auditing the claim and will eliminate letters of inquiry.

If you are filing a sales tax and/or petroleum business tax claim and this motor/diesel motor fuel tax refund claim for the same gallonage of fuel, you must submit the same substantiation required by the other claims with this form.

Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 8, 12-A, 13-A, 21, and 21-A of the Tax Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer the gas and diesel motor fuel, petroleum, highway use, and fuel use taxes under Articles 12-A, 13-A, 21, and 21-A of the Tax Law, and for any other purpose authorized by law.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law. In some cases, failure to provide the required information may result in denial, cancellation, or suspension of a registration as a distributor of motor fuel or of a license as a terminal operator or importing/exporting transporter.

This information will be maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.