



Instructions for Form CG-100-A

Application for License as a New York State Cigarette Agent or Agent/Wholesaler

Article 20 of the Tax Law

Who must file this form

Persons who wish to purchase and affix New York State Cigarette Tax Stamps must be licensed as Cigarette Agents. Any person who sells to retail dealers and other persons for the purpose of resale must be licensed as a Wholesale Dealer of Cigarettes. Form CG-100-A may be used to apply for license as a Cigarette Agent; or, to apply for **both** a Cigarette Agent License **and** Wholesale Dealer of Cigarettes License.

For a Wholesale Dealer's License only, Form CG-100-W must be used. If you wish to be licensed as a wholesale dealer who **only** owns, operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by any other person, Form CG-100-V must be used.

The New York State cigarette tax law provides for licensing of agents to buy and affix cigarette tax stamps to be used in paying such tax. The following may be licensed as agents: (1) dealers (wholesalers or retailers) in cigarettes who maintain separate warehousing facilities for receiving and distributing cigarettes and conducting their business, who have received commitments from at least two cigarette manufacturers whose aggregate market share is at least 40% of the New York State market; (2) importers, exporters, or manufacturers of cigarettes; or (3) certain other businesses dealing in unstamped cigarettes.

Registering additional locations

When the only change being reported is the addition of new locations, no fee or financial statements are required to be submitted with the application. The cigarette agent/wholesale dealer must prepare Form CG-100-A and check the *Currently licensed and adding location(s)* box under the Reason for application section.

Note: The filing of this application does not permit you to do business at an additional location until you receive written notification of approval from the Department of Taxation and Finance.

Other requirements for license:

- ✓ Reviewed or audited financial statements prepared by an independent Certified Public Accountant or licensed Public Accountant for a period ended not more than 18 months prior to the date of the application. If the financial statements are for a period ended more than six months prior to the date of submission, interim financial statements (on a monthly or quarterly basis) must be submitted for a period of time ending within such six-month period. You may be required, at a later date, to submit an unqualified opinion in support of any financial statements.
- ✓ Proof of workers' compensation and disability insurance, or certification that the applicant does not intend to have any employees. Include a copy of the insurance policy or binder; a letter from the Workers Compensation Board if self insured; or a letter signed, under penalty of perjury, by a controlling person if there will be no employees.
- ✓ Copies of purchase contract and all related documents if the applicant is purchasing an existing business.

- ✓ Letters from two or more cigarette manufacturers comprising 40% or more of the New York market share stating that they agree to furnish cigarettes to the applicant once licensed. However, this is not a requirement for an applicant to operate as a manufacturer, importer or exporter.
- ✓ *Personal Questionnaire*, Form CG-100-P, (including all attachments required with this form) for each owner, officer, shareholder or any other person who would be defined as a controlling person. These may be mailed separately if the controlling person desires confidentiality.
- ✓ If purchasing stamps on credit, you must submit a cigarette tax credit bond or other acceptable security in the amount of the monthly credit desired. This need not be included with the application.

Definitions

An *agent* is any person licensed by the commissioner of taxation and finance to purchase and affix adhesive or meter stamps on packages of cigarettes under Article 20 of the Tax Law.

A *controlling person*, for purposes of this application, means any person who is an officer, director or partner (or in the case of a limited liability company, an officer, member or a person having with respect to such limited liability company authority analogous to that of an officer or director with respect to a corporation) of an applicant for an agent's or a wholesale dealer's license under Article 20 of the Tax Law, or if the applicant is a corporation, a shareholder, directly or indirectly, owning more than 10% of the number of shares of voting stock of such corporation. This includes persons who do or will exercise authority within the business comparable to the authority normally exercised by corporate officers, regardless of the form of business organization or lack of actual title.

A *natural person*, for purposes of this application, means a human being.

A *person* includes an individual, copartnership, limited liability company, society, association, corporation, joint stock company, and any combination of individuals and also an executor, administrator, receiver, trustee or other fiduciary.

A *wholesale dealer* of cigarettes is any person who sells cigarettes to retail dealers or other persons for purposes of resale, and any person who owns, operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by any other person.

Application fee

A **nonrefundable** application fee must be paid by certified check, bank check, money order or other guaranteed draft. Uncertified personal and business checks are not accepted for payment of the cigarette application fee. The fees are as follows:

Agent only:	\$1,500
Agent and wholesale dealer:	\$3,000

Requirement for renewal of license

The Department of Taxation and Finance may require that every agent's license be surrendered and a new application be filed not more often than once every three years.

Reduced fees for certain renewals

If the application fee has been paid during the preceding twelve months by an agent, the application fee for its new agent's license will be \$1,000. If an agent also needs a wholesaler's license and the wholesaler's application fee has been paid during the preceding twelve months, the application fee for the new wholesaler's license will be \$1,000.

Agent/wholesaler

An applicant for an agent's license who is also a wholesale dealer must also have a cigarette wholesale dealer's license. This form is to be used if an agent applicant is simultaneously applying for a wholesale dealer's license. (For a wholesale dealer's license only, or to add a wholesale dealer's license to an existing agent's license, submit application Form CG-100-W.)

An agent or wholesale dealer's license covers all locations listed on the application. **Each location must maintain separate books and records for cigarettes. Specifically, there must be separate cigarette purchase, sales and inventory records for each location.**

If you cease cigarette activities at any location, you are required to notify the Department of Taxation and Finance within ten (10) days.

Agent for the City of New York

A license issued based on this application does **not** authorize you to affix cigarette tax stamps for the City of New York. If you wish to stamp cigarettes for sale in the City of New York, you must, in addition to being licensed by the state, be appointed an agent by the City of New York Finance Administration. Contact the City of New York Taxpayer Assistance Unit at (718) 935-6000 or (718) 935-9500.

Transfer of license

A license as a cigarette tax agent or wholesale dealer is not assignable. That is, such license shall not be transferred to any person. In addition to any other meaning, a license shall be deemed assigned if any change in partnership interest has occurred or if shares of stock of a corporate agent are acquired by any person such that the person owns, directly or indirectly, more than 10% of the number of shares of voting stock of such corporation (25% or more in the case of an entity who has four or fewer shareholders). Except as provided herein, an assignment of a license is invalid and shall immediately result in the cancellation of such license.

However, if the transfer of the license is by way of bequest or inheritance from a decedent directly to:

- (i) the spouse or an ancestor of the decedent;
- (ii) a lineal descendant of the decedent, of the decedent's spouse, or of a parent of the decedent; or
- (iii) the spouse of any lineal descendant described in subparagraph (ii),

the license will remain valid for 90 days from the death of the individual. The beneficiary must promptly apply for a new license from the Department of Taxation and Finance.

Applications for transfer of registration must include applicable fees for your application to be processed.

Importers, exporters, cigarette manufacturers and other persons

Importers, exporters, cigarette manufacturers and other persons who are not cigarette wholesalers or retailers, and wish to be licensed agents, must also attach a full description of their cigarette business explaining why they wish to be agents. Accordingly, such importers, exporters, manufacturers or other persons so licensed as an agent may make no sales of cigarettes in New York State other than to a licensed agent.

Item-by-item instructions

Item numbers not listed are assumed to be self-explanatory.

Item 1(a) - Enter the exact legal name of your business. The legal name of a corporation is the name that appears on the certificate of incorporation. A limited liability company's legal name is the name that appears on its articles of organization. The legal name of an unincorporated business is the name in which the business owns property or acquires debt. The legal name of a partnership or a limited liability partnership is the name that appears on its partnership agreement. The legal name of a sole proprietorship is the name of the individual owner of the business.

Item 1(b) - Enter the trade name, "doing business as" name, or assumed name if different from 1(a). For a corporation, this is the name that appears on the trade name certificate you filed with the New York State Department of State. For an unincorporated business, this is the name filed with the county clerk's office.

Item 1(c) - Check all appropriate boxes pertaining to cigarette related activities which you are currently or will be involved in.

Item 2 - Enter the physical address of all stamping and/or storage locations and include the telephone numbers for all locations. Attach additional sheets if necessary.

Enter the mailing address(es) where you want to receive information, forms, etc. from the Tax Department. A post office box or representative's address is acceptable.

Give location information such as cross streets or nearest intersecting road.

List the specific location(s) in the building where the cigarette business is to be conducted. (*Example*: rear of first floor)

Item 3(b) - Enter your Federal Employer Identification Number (FEIN). If you do not have one, you are required to obtain one from the Internal Revenue Service (IRS) at 1 800 829-1040. A license will not be issued until an FEIN is obtained.

Item 3(c) - If you have any other Federal Employer Identification Number(s), enter such number(s).

Item 3(d) - Enter the date you began business in New York State or the date that you expect to begin conducting business in New York State.

Item 4(a) - If any of the stamping/storage locations listed in Item 2 are leased, Form CG-100-L, *Cigarette Agent/Wholesaler - Lessor Identification*, must be completed for each leased location. Copies of the lease or deed, for each location, must be submitted with your application.

Item 6 - Complete this item only if the applicant is an individual, a partnership, or an LLC or an LLP that is treated as a partnership under the Internal Revenue Code. List owner(s), general partner(s), limited partner(s) or controlling persons. Identify general partners as **GP** after their names and limited partners as **LP**. Include all employees responsible for the duties specified under A through G as listed.

You must provide a complete actual home address for each person listed. Do not list the address as c/o applicant.

If a listed person has dual citizenship, enter both countries.

In the duties (A through G) box, circle the letters A through G as they apply to the duties of the individual who has final authority for the following:

- A** - signing checks on the company's bank account(s)
- B** - signing the business' tax returns
- C** - paying creditors
- D** - making the final decision on which bills are to be paid
- E** - conducting the business' general financial affairs
- F** - filing returns or paying taxes imposed under Article 20 of the Tax Law
- G** - complying with any other requirement of the Tax Law

If the person listed performs duties relating to finances or taxes other than A-G, list the specific duties.

Provide the actual home phone number of each person listed in item 6

Item 7 - Complete this item only if the applicant is a corporation or an LLC treated as a corporation under the Internal Revenue Code.

Item 7(a) - Foreign and alien corporations must furnish proof that they have filed for authority to conduct business in New York State. Provide a copy of the 1) *Application for Authority* filed with New York State Secretary of State, and 2) official filing receipt issued by the New York State Secretary of State.

Item 7(b) - Enter the corporate headquarters' physical address, or *same* if as shown in Item 2.

Item 7(c) - Enter the required information for shareholders who own or control, directly or indirectly, more than 10% of the voting stock. For citizenship and duties see the instructions for item 6. The percentage of voting stock ownership is required and the date when the present level of stock ownership was reached. Percentages may be rounded to the nearest whole percentage for purposes of items 7(c) and 7(d). If any shareholder listed is not a *natural person*, attach a separate listing showing the information required in 7(c) until all ownership interest of more than 10% has been attributed to natural persons.

Item 7(d) - 100% of the voting stock must be accounted for in items 7(c) and 7(d).

Items 7(e) and 7(f) - You must provide a complete home address for each person listed. List officers and controlling persons in 7(e) or directors in 7(f). Include all employees responsible for the duties specified under A through G in 7(e). For citizenship and duties, see the instructions for item 6.

For Items 8 through 15, please check all applicable boxes and answer all questions which pertain to your business. Use additional sheets if more space is needed to fully explain any item.

Item 8(b) - Include crimes committed in New York State and other states or countries. You may exclude traffic violations of the vehicle and traffic laws.

Item 9(b) - Include crimes pending in New York State and other states or countries. You may exclude traffic violations of the vehicle and traffic laws.

Item 10(b) - Include the name of applicant or spouse, and/or controlling person, address of premises, date filed and disposition. Give the license or permit number if issued.

Item 11(b) - Give a complete description of the interest including the name(s), home address(es) and social security number(s) or FEIN of such person(s) involved. Provide the description of the interest, amount or percent (as applicable) of interest, loans or advances to or from the applicant, liens or mortgages on the fixtures of the applicant's business and date acquired.

Item 12(b) - Include the name(s), home address(es) and social security number(s) or FEIN of such person(s); an explanation of how each share is to be calculated; the date when this sharing interest was acquired by such person; and any other information needed to fully describe the arrangement.

Item 13(b) - Give the name of such person involved; business name with physical address of the business location; FEIN of the business; type of business; nature of the interest; the date when this interest was acquired by such person; and any other information needed to fully describe the interest.

Item 14(b) - Give the former name(s) with social security number, current name(s) with social security number(s) and the reason(s) for the change of name or social security number.

Item 16(d) - If you are not currently registered, include application Form DTF-17, *Application for Registration as a Sales Tax Vendor*. Cigarette agent and cigarette wholesale dealer licenses are conditioned upon the applicant having and maintaining an active sales tax registration.

Certification

This application must be signed by the owner, partner, corporate officer, or other controlling person assuming responsibility for the validity of the information contained in the application.

If the correct certification is not filled out, dated and signed, or the required attachments or fees are missing, your application may be returned to you.

Keep a copy of this application and all required documents or information to be sent with this application.

Need help?



Telephone assistance is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday.

For business tax information, call the New York State Business Tax Information Center: 1 800 972-1233

For general information: 1 800 225-5829

To order forms and publications: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Internet access: www.tax.state.ny.us



Hotline for the hearing and speech impaired:

1 800 634-2110 from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday. If you do not own a telecommunications device for the deaf (TDD), check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.



If you need to write, address your letter to:

NYS TAX DEPARTMENT
TAXPAYER CONTACT CENTER
W A HARRIMAN CAMPUS
ALBANY NY 12227