

Supplemental Summary of Legislation
Affecting Sales and Use Tax Enacted in 2009

This memorandum summarizes recently enacted legislation applicable to sales and use taxes that is in addition to the sales and use tax budget legislation that is described in TSB-M-09(16)S, *Summary of the 2009 Sales and Use Tax Budget Legislation*.

The following legislative changes are summarized in this memorandum:

- Extension of Exemptions on Certain Tangible Personal Property and Services for Leased Commercial Office Space in Lower Manhattan
- New Method of Computing Sales and Use Taxes on the Sale or Use of New Modular Home Modules
- Sales and Use Tax Exemption for Repair and Maintenance of Aircraft Made Permanent
- Special Supplemental Tax on Passenger Car Rentals Within the Metropolitan Commuter Transportation District (MCTD)
- Local Sales and Use Tax Imposed in New York City (New York City local sales tax)
- Penalty and Interest Discount Program (PAID)
- Tax Preparer Registration Program

Extension of Exemptions on Certain Tangible Personal Property and Services for Leased Commercial Office Space in Lower Manhattan

The tax-related incentives for businesses to locate or relocate their offices and employees in lower Manhattan have been extended. The original incentives were provided for by Chapter 2 of the Laws of 2005. Included in the new legislation are amendments that extend exemptions from New York State and local sales and use taxes for certain purchases of tangible personal property and services related to leased commercial office space in certain areas in lower Manhattan.

For further information on this amendment, see TSB-M-09(14)S, *Extension of Sales and Use Tax Exemptions on Certain Purchases of Tangible Personal Property and Services for Leased Commercial Office Space in Lower Manhattan*.

(Chapter 203, Tax Law, section 1115(ee)(1)-(8))

New Method of Computing Sales and Use Taxes on the Sale or Use of New Modular Home Modules

Effective December 1, 2009, sales and use tax is computed on the retail sale or use of new modular home modules based on 60% of their purchase price. However, 100% of any charge by the vendor for shipping and delivery of the modules continues to be subject to sales and use tax. Modular home modules sold to a dealer that the dealer will use as a model home are taxed at 100% of the charge to the dealer, including any charges for shipping and delivery. If a manufacturer of modular home modules sells new modules on an installed basis, then the

manufacturer will owe use tax computed on 60% of the price at which it sells the modules (not including any charge for shipping or delivery), plus 100% of the amount charged for shipping and delivery of the modules to the site. For further information on these changes, see TSB-M-09(19)S, *Sales and Use Tax Treatment for Sales of Modular Homes Modules Used to Build Modular Homes*.

(Chapter 399, Tax Law, sections 1101(b)(6), (33), (35), (36), and 1111(p))

Sales and Use Tax Exemption for Repair and Maintenance of Aircraft Made Permanent

The sales and use tax exemption related to the repair and maintenance of aircraft, which was originally provided for by Chapter 60 of the Laws of 2004, was made permanent. Without this amendment, the exemption would have expired on December 1, 2009. For further information, see TSB-M-09(18)S, *Sales and Use Tax Exemption Related to the Repair and Maintenance of Aircraft Made Permanent*.

(Chapter 204, Tax Law, section 1115(dd) and Part L of Chapter 60 of the Laws of 2004)

Special Supplemental Tax on Passenger Car Rentals Within the Metropolitan Commuter Transportation District (MCTD)

Effective June 1, 2009, a special supplemental tax is imposed at the rate of 5% on the receipts for the rental of a passenger car that is rented or used within the MCTD (Bronx, Kings, New York, Queens, and Richmond counties and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester). This new tax is in addition to all other taxes on passenger car rentals. For further information, see TSB-M-09(6)S, *Special Supplemental Tax on the Rental of Passenger Cars Within the Metropolitan Commuter Transportation District*.

(Chapter 25, Tax Law, section 1166-a)

Local Sales and Use Tax Imposed in New York City (New York City local sales tax)

Amendments to the Tax Law and the Administrative Code of the City of New York resulted in the following changes:

- **Rate of New York City local sales and use tax increased**

Effective August 1, 2009, the New York City local sales and use tax rate was increased to 4 ½%. As a result of this change, the combined state and local sales and use tax rate imposed in New York City is 8 ⅞% (8.875%). This rate includes the 4% state tax, the ⅜% MCTD tax, and the 4 ½% New York City sales tax.

- **Exemption from New York City local sales and use tax for clothing and footwear costing \$110 or more is repealed**

Effective August 1, 2009, the exemption from New York City local sales tax for clothing and footwear regardless of cost was repealed, and New York City conformed to the New York State exemption from sales and use tax for clothing and footwear

costing less than \$110 per article or pair. Therefore, as of August 1, 2009, purchases of clothing and footwear costing \$110 or more per article or pair in New York City are subject to the 8 $\frac{7}{8}$ % combined state and local tax rate. Purchases of clothing and footwear costing less than \$110 per article or pair remain exempt.

• **Transportation and delivery of gas or electricity**

Effective August 1, 2009, receipts from the sale of the services of transporting, transmitting, distributing or delivering gas or electricity are subject to the 4 $\frac{1}{2}$ % New York City local sales tax, even if purchased from someone other than the vendor of the gas or electricity. The commodities of gas and electricity themselves are already subject to New York City sales tax.

For further information on the above amendments, see Important Notice, N-09-12, *Sales Tax Law Changes in New York City-Effective August 1, 2009*.

(Chapter 200, Tax Law, sections 1210(a)(4) and 1212-A(a)(2),(3), Administrative Code of the City of New York, sections 11-2001(a), (b), and 11-2002(a))

Penalty and Interest Discount Program (PAID)

New legislation was enacted that established the Penalty and Interest Discount (PAID) Program. The program's intent is to encourage eligible taxpayers to pay off their eligible tax liabilities for which an assessment or final determination was issued on or before December 31, 2006. A taxpayer who participates in the program will receive a reduction in the accrued interest and penalty currently owed on eligible tax liabilities. The program period will begin on January 15, 2010, and end on March 15, 2010.

For a complete description of this program, see TSB-M-09(13)C, (14)I, (12)M, (10)R, (20)S, and visit our Web site at www.nys.tax.gov.

(Chapter 501)

Tax Preparer Registration Program

The definition of *tax return preparer* in section 32 of the Tax Law has been amended. The definition is used to determine who needs to register for the Tax Preparer Registration Program for personal income tax returns prepared on or after December 31, 2009, and for returns prepared for taxes other than personal income taxes on or after December 31, 2010.

Prior to the amendment, attorneys, public accountants, and certified public accountants were excluded from the definition of tax return preparer only if they were registered or licensed in New York State. After the amendment, attorneys, public accountants, and certified public accountants who are registered or licensed in any state in the United States are excluded from the definition.

In addition, the exclusion for employees preparing returns under the supervision of attorneys, public accountants, and certified public accountants was amended. Under the new law,

to be excluded from the definition of tax return preparer, the individual has to be an employee of a law firm, public accounting firm, or certified public accounting firm and be preparing returns under the supervision of an attorney, a public accountant, or a certified public accountant in that firm. Prior to the amendment, the employer was not required to be a law firm, public accounting firm, or certified public accounting firm for the employee to qualify for exclusion.

For more information on this amendment, see TSB-M-09(14)C, (16)I, (13)M, (5)MCTMT, (11)R, (21) S. For a complete description of the program see TSB-M-09(11)C, (9)I, 10(M), (3)MCTMT, (4)R, (15)S, *Tax Preparer Registration Program*.

(Chapter 503, Tax Law, section 32(a)(14))

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.