Small Business Tax Issues

NYSDTF Mission and Strategic Goal

- To be an agency that provides a fair and efficient system of tax administration, is accessible and responsive to taxpayers, and promotes the State's overall efforts to improve the lives of its citizens.

- To efficiently collect tax revenues in support of State services and programs while acting with integrity and fairness in the administration of the tax laws of New York State.

Federal Conformity

- You must comply with all federal and NYS tax laws
- New York **income** starts with Federal Income Tax Return.
- If you need a federal Identification Number you must complete form SS-4. (www.irs.gov)
- Use your federal Identification number for ALL New York State Tax filing requirements.

Conducting Business in NYS

New York State conforms with the Internal Revenue Code regarding your business entity.

- **Sole-proprietor** - attach copy of Federal Schedule C to your NYS personal income tax return.
- **Partnerships** - required to file an annual partnership return form IT-204 and each partner reports their share of their partnership income on their personal income tax return.
- **All Corporations** - *required to file a franchise tax report each year and pay a minimum franchise fee to NYS for the privilege of doing business in the state.*
- **Limited Liability Companies** - *required to file a report and pay an annual fee sixty days after the end of the tax year.*

Pay Estimated Tax on Your Business Income

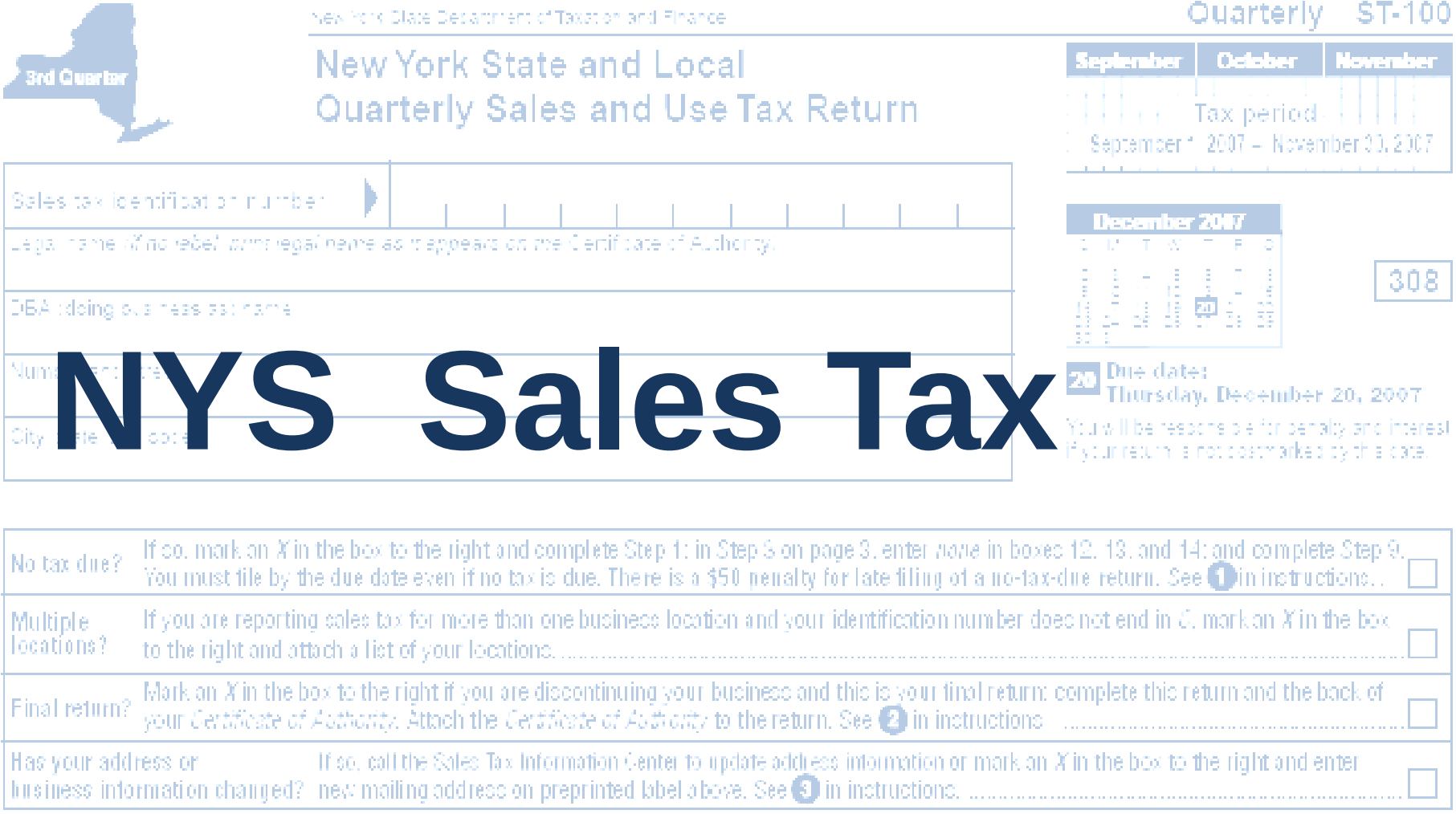
- A self-employed individual may be required to file and pay estimated taxes
  - Pay online or by filing Form IT-2105
- Estimated taxes due dates:
  - April 15
  - June 15
  - September 15
  - January 15

Will you hire employees?

Employees

- New hire rule - all employers must report identifying information about newly hired employees working in the state to NYS Tax Department within 20 calendar days of the hiring date. ***www.nysnewhire.com***
- Generally, a worker who performs services for you is your employee if you can control what will be done and how it will be done.
- NYS conforms to federal guidelines regarding employer/employee relationships and the definition of an employee, contractor or self-employed individual.
- Withholding - a “trust” tax - entrusted to employer who becomes personally liable

NYS Sales Tax



Sales Tax Check List

- ✓ Review Sales Tax Resources - available on the sales tax home page http://www.tax.ny.gov/bus/st/stidx.htm
- ✓ Purchasing or Acquiring a Business
- ✓ Register for a Sales Tax ID Number
- ✓ File your sales tax return on time even if there is no tax due
- ✓ Pay the correct amount of tax due on time
- ✓ Sales tax rate and jurisdiction look up – www.tax.ny.gov
- ✓ Create an online service account so that you can web file your sales tax returns.
- ✓ Business Best Practices – Recordkeeping
- ✓ Maintain a separate sales tax account

Sales Tax Bulletins

Web-based guidance that provides valuable information in simplified language on tax topics of interest

- sales tax administration
- personal services
- car wash services
- food industry (catering, taverns, restaurants,)
- convenience stores and bodegas (food retailers and pharmacies)
- hotel and motel operations
- health and fitness clubs
- interior decorating and design services
- manufacturers
- vending machines

Register for a Sales Tax ID Number

- Sales tax is a trust tax – personally financially responsible for payment of taxes
- A sales tax vendor is any person who makes taxable sales of goods or services within the state or who accepts or issues an exemption certificate.
- Register for a Sales Tax Certificate of Authority ***www.nys-opal.com***

Sales Tax: Purchasing an Existing Business

- Complete and mail Form AU 196.10, Notification of Sale, Transfer, or Assignment in Bulk and pay the sales tax at least ten days prior to purchase.

- Apply for a new Certificate of Authority at least 20 days before acquiring all or part of an existing business.

Taxable Sales

- Retail sales of tangible personal property
- Services to tangible personal property
- Sales of specifically enumerated services
- Sales of food and drink by caterers, on premise consumption, heated or prepared foods and sandwiches

NOTE: For sales tax purposes, the term sale includes a lease, rental, exchange or barter.

Information Services

No sales tax if :

- Receipts are from the sale of information which is personal or individual in nature and …
- Is not or may not be substantially incorporated into reports furnished to other persons by the person who has gathered or analyzed the information.

Collecting Sales Tax

- Point of delivery and delivery charges – sales tax locality rate look-up available online
- Must state tax separately on invoice
- Must clearly indicate if item is exempt what the item is that is exempt, if not separated the entire bill is taxable
- Use tax – business owes sales tax on a purchase

Filing Requirements for Sales and Use Tax Returns (TB-ST-275)

	Quarterly Filing Period	Return Due
Quarterly Filers	Mar 1 – May 31	Jun 20
	Jun 1 – Aug 31	Sep 20
	Sep 1 – Nov 30	Dec 20
	Dec 1 – Feb 28/29	Mar 20

	Annual Filing Period	Return Due
Annual Filers	Mar 1 – Feb 28/29	Mar 20

- Vendors who remit $3,000 or less after filing four quarters may qualify as annual filers.
- Vendors whose taxable receipts and purchases subject to use tax is $300,000 or more in a quarter must file monthly.
- Most vendors must Web File their sales tax returns

Sales Tax Filing Responsibilities

- A sales tax return is still required to be filed, if you are a registered vendor, and did not collect any tax for the tax period in question.
- Vendor Collection Credit (currently at 5% of tax payable except monthly filers with a maximum of $200)
- Sale Taxes are trust taxes – As a responsible person you can be held personally liable for payment of taxes.
- NOTE: If you cease doing business, you must file a final sales tax return and return your **Certificate of Authority** to the Department.

Common Sales Tax Exemption Certificates

- ST-120 Resale Certificate
- ST-120.1 Contractor Exempt Purchase Certificate
- ST-121 Exempt Use Certificate
- ST-119.1 Not for Profit Exemption Certificate
- ST-124 Certificate of Capital Improvement
- ST-125 Farmer's Exemption Certificate

Sales Tax Exemption Certificates

- Single purchase or blanket
- 90 days from when transaction takes place
- Keep with records

Sales Tax Recordkeeping Requirements (TB-ST-770)

- Recordkeeping rules
- What records to be kept
- How long to keep records
- Point-of-sale systems
- Maintaining records electronically
- When records are considered inadequate
- Consequences of inadequate records
- NEW: YouTube video explaining record keeping requirements

Sales Tax Fiduciary Responsibilities

- Register as a sales tax vendor
- Receive and display a Certificate of Authority
- Keep accurate and detailed records of their sales – an affirmative obligation
- Be able to “truthfully account” for sales
- Collect taxes due
- Remit taxes due
- File accurate and complete returns – on time
- Provide records to when asked or when subpoenaed
- Answer questions and comply with requests for information or when subpoenaed

Online Services

- Self-service makes it easier to conduct business at your convenience.
- Sign up for subscription service
- Create an online business account :
  - Sign up to receive e-mails
  - Web File certain business tax returns (Note: most sales tax vendors are required to web file)
  - View consolidated statements and make payments
  - Respond to notices
  - Update contact information
- Videos, demos, webinars available to help you create an account
- **NEW**: Follow the Department on Twitter

Use Sales Tax Web File

- Easiest and fastest way to file and make payments
- Create an Online Services account
- Receive a dated, electronic confirmation when return is filed
- File and schedule electronic payments in advance through the return due date
- For more information: ***www.tax.ny.gov/bus/ads/stwebfile.htm***

Sales Tax E-file Mandate for Businesses

Business is required to e-file and e-pay if:

- do not use a tax preparer for the required filings;
- use a computer to prepare, document or calculate any of the sales tax schedules
- have broadband internet access

Voluntary Disclosure & Compliance Program

- Eligible taxpayers who owe back taxes can avoid penalties and criminal charges by:
  - telling the Department what taxes they owe
  - paying those taxes; and
  - entering an agreement to pay all future taxes.
- Program covers ALL taxes administered by the Tax Department.

New York State Tax Credits for Businesses

- Designed to promote economic development, create jobs, stimulate capital investment, encourage revitalization of distressed areas.
- Broad range of tax credits underscores the state's commitment to attract and foster growth in business community
- For more information visit:
  - www.tax.ny.gov/pit/credits/more_income_tax_credits.htm for income taxes (includes flow through entities).
  - www.tax.ny.gov/bus/ct/article9a_tax_credits.htm for general business corporations.

Tips: Resolving a Tax Problem

- **NEVER IGNORE correspondence from the Tax Department**
  - Unable to pay a bill immediately? Request an Installment Payment Agreement
  - Avoid tax warrants, levies, income executions, and seizure and sale of assets
- **Numerous ways to resolve disputes with the department**
  - Online – Telephone – Mail – Fax
- **Formal protest rights**
  - Bureau of Conciliation and Mediation Services - conference
  - Division of Tax Appeals – formal administrative hearing
- **Office of the Taxpayer Rights Advocate can help resolve individual and systemic problems at www.tax.ny.gov/tra**

For More Assistance

- Sales Tax Information Center **518-485-2889**
- Corporation Tax Information Center **518-485-6027**
- Withholding Tax Information Center **518-485-6654**
- Online Tax Center help **518-485-7884**
- Publication TR-24 *Convenient Options for Handling NYS Tax Business*
- Taxpayer Rights Advocate - ***www.tax.ny.gov/tra***
- ***www.nyfirst.ny.gov***
- ***www.tax.ny.gov***

THANK YOU

The material included here is intended only to highlight NYS tax information as of the date presented. For more comprehensive information, please refer to our TSB-M's, forms, instructions and publications.