

**Notification Regarding
the Sales and Use Tax Exemption for Clothing, Footwear,
and Items Used to Make or Repair Exempt Clothing or Footwear**

This memorandum supercedes TSB-M-01(02)S, dated February 12, 2001, regarding the sales and use tax exemption for clothing, footwear, and items used to make or repair exempt clothing or footwear, costing less than \$110 per item.

New York State has enacted legislation that amends the sales and use tax exemption for clothing, footwear, and items used to make or repair such clothing or footwear. **Beginning June 1, 2003, and ending May 31, 2004, vendors must collect and remit the total New York State and local sales and compensating use taxes (including the ¼% tax imposed by the state in the Metropolitan Commuter Transportation District (MCTD)) on sales of clothing, footwear, and items used to make or repair such clothing or footwear, regardless of the price.** The MCTD consists of the city of New York and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Two seven-day exemption periods have also been enacted. The first seven-day exemption period begins on Tuesday, August 26, 2003, and ends on Monday, September 1, 2003, and the second seven-day exemption period begins on Monday, January 26, 2004, and ends on Sunday, February 1, 2004. Detailed information about these exemption periods will be provided in a future memorandum.

Special transitional rules

Orders for clothing, footwear, and items used to make or repair such clothing or footwear

Merchandise that is ordered by mail or telephone, or by using the Internet or E-mail, is taxed at the rate in effect on the date the order is accepted by the vendor regardless of when the order will be delivered. If the order is accepted on or after June 1, 2003, but before June 1, 2004, the sale is subject to the total New York State, MCTD, and local sales tax in effect on that date.

Rain Checks

The sales and use tax exemption in place prior to June 1, 2003, will not apply to purchases made on or after June 1, 2003, but before June 1, 2004, even though the purchaser uses a rain check that was issued prior to June 1, 2003.

Layaway sales

A layaway sale is a sale in which merchandise is set aside for future delivery to a customer who makes a deposit and agrees to pay the balance of the purchase price over a period of time before the merchandise is delivered. The sales price of the merchandise includes any additional charges a vendor makes for putting the merchandise on layaway.

If a vendor and a customer enter into a contract for a layaway sale prior to June 1, 2003, the exemption will apply as long as the customer makes a deposit of at least 10% of the order price and the merchandise is segregated from other inventory.

Exchanges

Where a customer makes a purchase prior to June 1, 2003, and later returns the merchandise for an exchange on or after June 1, 2003, but before June 1, 2004, the vendor need not charge sales tax on the exchanged item as long as it is similar to the item returned. Where a customer returns an item and receives a credit to purchase a different item in the future, or is allowed to purchase a different item at the time of the return, the appropriate sales tax will apply to the sale of the new item.