



Department of Taxation and Finance

Important:

The information on the state and/or local exemptions for clothing and footwear in this TSB-M is out-of-date and cannot be relied upon.

For the most up-to-date information on state and local sales and use tax rates on clothing and footwear, see [Find sales tax rates](#).

For a detailed list of exempt and taxable items, see [Lists of Exempt and Taxable Clothing, Footwear, and Items Used to Make or Repair Exempt Clothing](#).

The TSB-M begins on page 2 below.

**Temporary Sales and Use Tax Exemption of Clothing, Footwear,
and Items Used to Make or Repair Exempt Clothing**
(One-week exemption period - January 31, 2005, through February 6, 2005)

As announced on September 8, 2004, in TSB-M-04(6)S, *Sales Tax on Clothing and Footwear Remains in Effect until June 1, 2005*, clothing, footwear, and items used to make or repair clothing continue to be subject to New York State and local sales and use taxes until June 1, 2005. However, clothing and footwear and items used to make or repair exempt clothing, costing less than \$110 per item or pair, are exempt from New York State sales and use taxes when purchased during the one-week exemption period beginning on Monday, January 31, 2005, and ending on Sunday, February 6, 2005. The one-week exemption does not apply to locally imposed sales and use taxes unless the county or city imposing those taxes elected the exemption.

Likewise, the one-week exemption does not apply to the $\frac{1}{4}\%$ tax imposed by the state in any portion of the Metropolitan Commuter Transportation District (MCTD), unless the county or city in the MCTD provided an exemption from its own tax, in which case the exemption will also apply to the $\frac{1}{4}\%$ MCTD tax in that county or city. The MCTD consists of the city of New York and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

See TSB-M-04(9.1)S, *Temporary Sales and Use Tax Exemption of Clothing and Footwear, January 31, 2005, through February 6, 2005*, for a listing of local tax rates in the counties and cities where clothing and footwear remain subject to local tax during the one-week exemption period and for a listing of counties and cities where no tax applies during the exemption period.

The following provides information on transitional provisions that apply to the one-week exemption period, a description of the clothing and footwear exemption, and a listing of exempt and taxable items during the exemption period.

Special Transitional Provisions

Mail and telephone orders

The exemption will apply to purchases that are ordered by mail or by telephone if the orders are accepted by the vendor during the one-week period of exemption. An order is accepted by the vendor when the vendor has taken an action to fill the order. Actions to fill an order include placing an in-date stamp on a mail order or assigning an order number to a telephone order. As long as the vendor accepts the customer's order during the exemption period, the exemption will apply even though delivery might be made after the exemption period has ended. These rules will also apply to orders made using the Internet and email.

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 of eligible clothing or footwear during the exemption period, the exemption will apply as long as the customer makes a deposit of at least 10% of the purchase price during the exemption period and the merchandise is segregated from other inventory.

Custom and special orders

Eligible clothing and footwear and items used to make or repair exempt clothing that are custom ordered or special ordered during the exemption period will qualify for the exemption, even though the item is delivered after the one-week exemption period. To qualify for the exemption, the vendor and the customer must enter into a contract during an exemption period to have the custom or special order made for the customer.

Rain Checks

The exemption will apply to purchases made with a rain check during the exemption period. The exemption will not apply to purchases made after the one-week exemption period has ended, even though the purchaser uses a rain check that was issued during the exemption period.

Exchanges

Where a customer makes a purchase during the one-week exemption period and returns to exchange the item after the exemption period has ended, the vendor need not charge tax on the exchanged item as long as it is similar to the item returned (i.e., a shirt for a shirt, one pair of shoes for another, etc.), and the exchanged item itself otherwise meets the requirements for exemption.

If 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. For example, if a customer buys a shirt during the one-week exemption period and exchanges it a week after the exemption period has ended for a pair of boots, tax is due on the full price of the boots.

Description of the clothing and footwear exemption

The one-week exemption applies only to clothing and footwear worn by humans. It also applies to most fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing or that are used to make or repair exempt clothing. While the exemption applies to items of clothing and footwear worn on the body, not all items

worn on the body qualify as clothing or footwear. Jewelry, watches, and like items remain taxable.

Equipment items, such as tool belts, hard hats, and sport, bicycle and motorcycle helmets, though worn on the body, remain taxable. Protective goggles and safety glasses (unless prescription) for sport or occupational use, protective sport or occupational masks or pads, hockey and baseball fielders' gloves or mitts, ice skates and roller skates, fireplace mittens, and similar pieces of equipment (sporting or otherwise) also remain taxable. Antique clothing and footwear are exempt if they are purchased for human wear and not as collector's items. All purchases of doll and pet clothes and footwear are taxable.

If exempt clothing or footwear is sold with other taxable merchandise as a single unit, the full price is subject to sales or use tax, unless the price of the clothing or footwear is separately stated. For example, a store has a boxed gift set for sale that has a French-cuff dress shirt, cufflinks and a tie tack. The gift set is sold for a single price of \$50. Although the shirt sold by itself would be exempt, the full price of the boxed gift set would be taxable because the cufflinks and tie tack are taxable and the selling price of the shirt is not separately stated.

The following additional limitations will apply to the exemption.

- The article of clothing or footwear (per pair) must be sold for less than \$110. This *less than \$110* limitation also applies to each item of fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing or that are used to make or repair exempt clothing. A charge by the vendor for alterations to clothing sold by the vendor should be included when determining whether the *less than \$110* limitation has been met, unless the vendor separately states a reasonable charge for the alteration on the receipt given to the purchaser of the clothing [see TSB-M-02(4)S].
- Costumes and rented formal wear are not eligible for exemption. Nor does the exemption apply to fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of costumes or rented formal wear or that are used to make or repair costumes or rented formal wear.
- Items of fabric, thread, yarn, buttons, snaps, hooks, zippers and like items used to make or repair otherwise exempt clothing are not eligible for exemption if the item is made from real or imitation pearls, or from real or imitation precious or semiprecious stones, jewels, or metals.
- Most accessories (such as handbags, umbrellas, watches, and watchbands) are not considered clothing and are taxable. However, belt buckles, handkerchiefs, sweatbands, head scarves, and neckwear, such as scarves and ties, are exempt.
- Fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items used to make or repair taxable products are taxable.

- Monogramming of clothing prior to its sale is eligible for exemption if the monogramming is sold in conjunction with the sale of the clothing and the price for the monogrammed item is less than \$110. However, if the monogramming is done separately by a vendor for a separate charge, the charge for this service is taxable. This limitation also applies to the application of decals, logos and like items (e.g., pictures or letters) by sewing, printing, imprinting, silk screening, and the like.

Delivery, shipping and handling charges (delivery)

Reasonable, separately stated charges by the vendor for delivery of eligible clothing and footwear are not taken into account in determining if the cost of an item is less than the \$110 limitation. For example, if an article of clothing sells for \$95 and the vendor charges \$20 for delivery, the clothing and the delivery charge qualify for exemption. However, delivery charges by the vendor for items or pairs costing \$110 or more remain subject to tax.

Coupons

Where a customer uses a manufacturer's coupon to pay for an article of clothing or a pair of shoes or other articles of footwear, the value of the coupon does not reduce the selling price for purposes of determining whether the article or pair is sold for less than \$110. But where a customer pays for clothing or footwear using a store coupon, for which the store receives no reimbursement, the store coupon does reduce the selling price of the clothing or footwear for purposes of determining whether the item is sold for less than \$110.

Special reporting requirements for exemption items

Vendors who make sales of exempt clothing, footwear, and items used to make or repair exempt clothing must file Schedule H to report those sales. All sales of these items must be separately reported on Schedule H for the locality in which the sales were made. Sales of exempt clothing, footwear, and items used to make or repair exempt clothing must be reported, by locality, whether they are subject to local tax (because a county or city did not elect for the exemption to apply) or are exempt from both state and local taxes.

Schedule H must be completed and filed by vendors who have made sales of eligible clothing and footwear during the period covered by the return. Schedule H will be supplied to all quarterly and annual filers of Forms ST-100, ST-101, ST-102, and ST-810 with their returns. This schedule should be completed and filed along with your quarterly or annual return.

The pages that follow contain lists of exempt and taxable clothing and footwear items. The lists are intended as a guide and are not all-inclusive. ***Previously issued lists should not be used.***

**Sales and Use Tax Exemption of Clothing, Footwear,
and Items Used to Make or Repair Exempt Clothing Effective
Monday, January 31, 2005, through Sunday, February 6, 2005**

Listing of Exempt and Taxable Items

Exempt Items

Aerobic clothing	Gloves (batting, bicycle, dress [unless rented], garden, golf, ski, tennis, work)	Shoulder pads, for dresses, jackets, etc. (but not athletic or sport protective pads)
Antique clothing (for wear)		
Aprons	Graduation caps and gowns (unless rented)	Shower caps
Arch supports*	Gym suits	Ski masks
Arm warmers	Hand muffs	Sleepwear
Athletic supporters	Handkerchiefs	Slippers
Athletic or sport uniforms or clothing (but not equipment such as mitts, helmets and pads)	Hats	Sneakers
Bandannas	Hosiery (panty hose, peds, etc)	Socks
Bathing caps	Insoles	Sports clothing and uniforms (but not equipment such as mitts, helmets and pads)
Bathing suits	Jeans	Stockings
Beach caps and coats	Jogging suits	Support hosiery
Belt buckles	Lab coats	Suspenders
Belts/suspenders	Leg warmers	Sweat bands
Bibs (baby)	Leotards	Sweat suits
Blouses	Lingerie	Ties/neckwear
Boots (climbing, fishing, riding, ski, waders)	Pajamas	Tights
Bridal gowns and veils (unless rented)	Ponchos	Tuxedo (unless rented)
Caps	Prom dress (unless rented)	Underwear
Coats and wraps	Rain wear	Uniforms (occupational, military, scouting, sport)
Corset laces	Receiving blankets	Wet and dry suits
Coveralls	Religious clothing	Yard goods, and notions**
Diapers (adult - including disposable)*	Rented uniforms (unless formal wear/costume)	
Diapers (children - including disposable)	Riding pants	
Dress shields	Robes	
Dresses	Scarves	
Ear muffs	Scout uniforms	
Formal clothing (unless rented)	Shawls and wraps	
Fur clothing	Shirts	
Garters/garter belts	Shoes (ballet, bicycle, bowling, cleated, football, golf, jazz/dance, soccer, track, etc.)	
Girdles	Shoe inserts	
	Shoe laces	

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Listing of Exempt and Taxable items

Taxable Items

Antique clothing (collectable - not for wear)	Key cases	Shin guards and padding
Barrettes	Mitts (baseball fielder's glove, hockey, etc.)	Shoulder pads (football, hockey, etc.)
Bobby pins	Party costumes	Sunglasses (unless prescription)
Costumes	Personal flotation devices	Umbrellas
Crib blankets	Protective masks (athletic, sport or occupational)	Wallets
Elastic ponytail holders	Roller skates	Watch bands
Goggles (unless prescription*)	Safety glasses (unless prescription*)	Watches
Hair bows	Sewing accessories (not an integral part of clothing such as chalk, instruction books, knitting needles, measuring tapes, needles, patterns, scissors, pins, thimbles)	Wigs
Hair clips		Yard goods and notions**
Handbags and purses		
Headbands (Sweatbands are exempt)		
Helmets (sport, motorcycle, bicycle, etc.)		
Ice skates		
In-line skates		
Jewelry		

* Items marked with an asterisk are exempt regardless of their price. See Publication 822, *Taxable Status of Medical Equipment and Supplies*. Do not report these items on Schedule H.

** Yard goods and notions (fabric, thread, yarn, buttons, snaps, hooks, zippers and like items) used or consumed to make or repair exempt clothing which become a physical component part of the clothing are generally exempt. See pages 2 and 3 for additional details concerning the taxability of yard goods and notions.