

## **Sales Tax Treatment of Waste Tire Management and Recycling Charges Imposed by Tire Sellers**

The state-imposed Waste Tire Management and Recycling Fee was enacted in 2003 and is administered by the Tax Department. The fee is \$2.50 for every new tire sold, of which an allowance of \$0.25 is retained by the seller to cover its costs associated with collecting the fee. This state-imposed fee is not subject to state and local sales taxes (sales tax). Any charges by the seller associated with waste tire management and recycling had to be included in the published selling price of the tire.

Recently enacted legislation (Chapter 200 of the Laws of 2008) has amended the Environmental Conservation Law relating to the charges that may be made by tire sellers for waste tire management and recycling costs. Under the new law, a seller's waste tire management and recycling costs in excess of the \$0.25 allowance described above may be included in the advertised price of the tire, or the seller may choose to impose a separate charge for those costs.

If the seller chooses to impose the separate charge, the charge is limited to \$2.50, or the actual waste tire management and recycling costs of the seller reduced by the \$0.25 allowance described above, whichever is less. In addition, the amount of the charge must be separately stated on the invoice, and the invoice must state that the charge is imposed at the sole discretion of the seller.<sup>1</sup>

Unlike the state-imposed Waste Tire Management and Recycling Fee, any additional waste tire management and recycling charge made by the tire seller, whether included in the price of the tire or separately stated, is considered part of the total selling price of the tire and is subject to sales tax.

*Example: A tire seller in a jurisdiction with an 8% sales tax rate chooses to separately state its waste tire management and recycling costs. The seller determines that it costs \$2.00 to recycle each tire. Therefore, the seller may impose a separate charge of \$1.75 for each tire (the \$2.00 cost less the retained \$0.25 allowance). The advertised selling price of the tire is \$40.00, which includes the seller's charges for mounting and balancing. The total amount due from the customer for the tire is computed as follows:*

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<sup>1</sup> The new law also contains additional rules that apply to tire sellers that choose to separately state their tire management and recycling charge, an example of which is a requirement that the seller post the amount of the charge at their place of business. Since these additional rules are not related to the sales computation, and are not administered by the Tax Department, they are not addressed in this memorandum.

<i>Advertised price of the tire:</i>	<i>\$40.00</i>
<i>Seller's charge for recycling:</i>	<i><u>1.75</u></i>
<i>Selling price of the tire:</i>	<i>\$41.75</i>
<i>Sales tax at 8%:</i>	<i><u>3.34</u></i>
<i>Subtotal:</i>	<i>\$45.09</i>
<i>Waste tire management fee:</i>	<i><u>2.50</u></i>
<i>Total amount due for the tire:</i>	<i>\$47.59</i>

*If, in this example, the seller decided to include its cost in the advertised price of the tire, the total amount due from the customer for the tire is computed as follows:*

<i>Advertised price of the tire:</i>	<i>\$41.75</i>
<i>Sales tax at 8%:</i>	<i><u>3.34</u></i>
<i>Subtotal:</i>	<i>\$45.09</i>
<i>Waste tire management fee:</i>	<i><u>2.50</u></i>
<i>Total amount due for the tire:</i>	<i>\$47.59</i>

*As illustrated in both cases above, the state-imposed Waste Tire Management and Recycling Fee of \$2.50 must also be charged and stated separately.*

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.