

Sales Tax Imposed on Certain Transportation Services

Effective June 1, 2009, New York State and local sales tax will apply to transportation services provided using limousines, black cars, and certain other motor vehicles with a driver. However, the sales tax will not apply to taxicab and bus services, scheduled public transportation services, services provided in connection with funerals, or interstate services.

In addition, transportation services sold by an organization described in Tax Law section 1116(a)(4), (5), or (7), such as a private not-for-profit school, church, charity, armed services post, health maintenance organization, or other such exempt organization, will be exempt from tax. However, if New York State or a county, city, town, village, public corporation, or an agency or instrumentality of any of them, sells transportation services as described above, the sales would be taxable.

The purpose of this TSB-M is to provide notice of the law change and the need for affected businesses to register with the Tax Department for sales tax purposes by June 1, 2009. The department will soon be issuing another TSB-M providing more details on the sales tax imposed on transportation services. If you sign up for the Department's [subscription service](#) through our Web site at www.nystax.gov, and select sales tax, you will receive sales tax TSB-Ms automatically.

Who must register

If you are the provider of transportation services that will be subject to sales tax, you must register for sales tax purposes (see *Registration* below) before June 1, 2009, if you are not already registered. Except for the special rule described below, the provider of the transportation service is the person or entity that collects the transportation charge from the customer. Accordingly, the provider of a transportation service may be the person (corporation, partnership, LLC, individual, governmental entity, etc.) that owns the vehicle(s) used to provide the service, the base that dispatches the vehicle(s) used to provide the service, or the owner-driver that provides the service.

Special rule relating to the rental or lease of a vehicle to an unrelated person

The Tax Law provides a special rule regarding who must register for sales tax purposes and collect the tax when a driver rents or leases a limousine, black car, or other vehicle from an unrelated person and uses the vehicle to provide a transportation service. In these cases, the owner or lessor of the vehicle is considered to provide the transportation service. Accordingly, the owner or the lessor: is considered to be the vendor (provider); is required to register; and is required to collect the tax from the driver based on 200% of the daily or shift rental charge. An *unrelated person* is a person other than a *related person* as defined in section 14 the Tax Law. Section 14 refers to the definition of *related person* in section 465(b)(3)(C) of the Internal

Revenue Code. Thus, if you rent or lease a vehicle to an unrelated driver, you must register for sales tax purposes as described below.

Registration

If the transportation service you provide will be taxable and you are not currently registered for sales tax purposes, you must register with the Tax Department and obtain a *Certificate of Authority* in order to continue to provide these services and to collect tax on them. To get a certificate, apply online using the *Online Tax Center* on our Web site at www.nystax.gov. You can also apply by filing Form DTF-17, *Application to Register for a Sales Tax Certificate of Authority*. (Form DTF-17 is available on our Web site). In either case, you need to apply at least 20 days prior to June 1, 2009, to ensure you have your *Certificate of Authority* on time. As a registered vendor, you must (1) collect tax on your receipts from every sale of tangible personal property and taxable services, (2) file periodic sales tax returns, (3) remit tax required to be collected, and (4) keep detailed records as required by sections 1132, 1134, 1135, 1136, and 1137 of the Tax Law.

Collection of tax

The sales tax is an accrual tax. This means you must remit the tax with your sales tax return that covers the period during which the sale occurred, even if the customer has not yet paid for the service by the time the return is due. You are required to collect state and local sales taxes as trustee for the state and for the counties and cities that impose local sales taxes. If you fail to collect any tax required to be collected, you become personally liable for that tax.

Additional information about the sales tax, including registration, keeping required records, filing returns and remitting tax, is provided in Publication 750, *A Guide to Sales Tax in New York State*; Publication 850, *New York State and Local Sales and Use Tax Quick Reference Guide*; and Publication 900, *Important Information for Business Owners*. These publications can be found on the Tax Department's Web site at www.nystax.gov.

Definitions

For purposes of this tax on transportation services, the following definitions apply:

Limousine is a vehicle with a seating capacity of up to fourteen (14) persons, excluding the driver.

Black car is a for-hire vehicle with a seating capacity of up to fourteen (14) persons, excluding the driver, dispatched from a central facility.

Other motor vehicle is any other vehicle with a seating capacity of up to fourteen (14) passengers, other than a taxicab or bus, such as a van or conventional passenger car.

Bus is a motor vehicle having a seating capacity of fifteen (15) or more passengers in addition to the driver and used for the transportation of persons.

Taxicab is a motor vehicle other than a limousine, black car, other motor vehicle, or bus, that is used in the business of transporting passengers for compensation, is operated under a license or permit issued by a local authority (county, city, town, village, etc.), contains a taximeter and can be legally hailed for service by a customer (unless a locality does not allow the hailing of vehicles).

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.