

**Amendment to the Definition of a Sales Tax Vendor for Out-of-State Sellers with Related Businesses in New York State**

Chapter 57 of the Laws of 2010 recently amended the Tax Law to narrow the definition of a vendor for purposes of sales and use tax (sales tax). It provides that certain in-state activities conducted by an affiliate on behalf of an out-of-state seller do not make the seller a vendor. This amendment is effective retroactively to June 1, 2009, and applies to sales or uses occurring on or after that date.

Previously, Chapter 57 of the Laws of 2009 amended the definition of a vendor. That legislation expanded the types of activities conducted in New York by a company on behalf of an out-of-state seller that could cause the out-of-state seller to qualify as a sales tax vendor when the two companies are affiliated. A detailed explanation of those changes is contained in TSB-M-09(3)S, *Definition of a Sales Tax Vendor is Expanded to Include Out-of-State Sellers with Related Businesses in New York State*.

However, under the new law, an in-state affiliate that only provides accounting or legal services or advice, or directs the activities of the seller (including but not limited to, making decisions about strategic planning, marketing, inventory, staffing, distribution or cash management on behalf of an out-of-state seller in New York State) will not make the out-of-state seller a vendor for sales tax purposes.

An out-of-state seller that is currently registered for sales tax purposes that is no longer a vendor because of this law change may file a final sales tax return and surrender its *Certificate of Authority* to the Tax Department. Special rules apply to those who Web file; see the *Online Services* section of our Web site for details about Web filing a final return. Also, see Tax Bulletin *Filing a Final Sales Tax Return* (TB-ST-265).

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