

Show Promoter Requirements As They Apply To Farmers' Markets

A "show promoter" is any individual or entity who, either directly or indirectly, rents, leases or permits the use of space to two or more persons who display for sale or sell tangible personal property or services subject to sales tax at a flea market, craft show, antique show, stamp show, comic book show, fair or any similar show more than three times in a calendar year, or anyone who operates or organizes such shows.

A farmers' market where the only products offered for sale are foodstuffs, and where no items or services subject to sales tax are available for sale, is not considered to be a show.

Although sales of prepared food and drink for consumption at the market are taxable, the vendors of such food and drink are not to be taken into account when determining the existence of a show.

Organizations or individuals organizing, operating, sponsoring or providing space for this type of farmers' market are not "show promoters" and need not file a Notice of Show and Application for Show Permit (TP-375) with the Department of Taxation and Finance.

However, where two or more persons participating in the farmers' market are offering products or services for sale which are subject to sales tax, the market WILL be considered a show. Examples of taxable products or services would be cut flowers; fruit plants, vegetable plants or ornamental plants; artwork; handicrafts; new or used merchandise; antiques; repair services; etc.

After the third such show during the calendar year held at the same location or operated or sponsored by the same individual or organization, the operator, sponsor or site owner will be required to comply with the show promoter requirements of the Sales and Use Tax Law.

Show promoters are required to file a Notice of Show and Application for Show Permit (TP-375) at least ten days before the opening of a show, with the office of the Taxpayer Assistance Bureau serving the county in which the show is to be held.

A promoter may not allow vendors of taxable goods or services to participate in a show unless they are registered as vendors with the New York State Department of Taxation and Finance.

Promoters must maintain records containing the name, address and sales tax certificate of authority number of each participant offering taxable items or services for sale at each show, and must file a Report of Show (TP-375.2) within twenty days following the end of any month in which a show is held.

The Report of Show must indicate the name, address and show permit number of the promoter, the location of the show(s) and show date(s), and the name, address and certificate of authority number of each participating vendor selling tangible personal property or services subject to sales tax.

Operators of farmers' markets at which there are both taxable and nontaxable sales being made, are not required to report the names and addresses of those participating farmers who make ONLY nontaxable sales.