

1985 LEGISLATION - CHAPTERS 286 AND 287

TAXABLE STATUS OF RACEHORSES OBTAINED THROUGH CLAIMING RACES
AND OTHER INFORMATION RELATED TO RACEHORSES

The following amendments to the Tax Law have been enacted by Chapters 286 and 287 of the Laws of 1985, effective July 1, 1985.

Section 1111 was amended by the addition of a new subdivision (g) which provides that racehorses obtained through claiming races* within New York State will be subject to sales tax, but only on that portion of the total purchase price which exceeds the highest of any prior purchase prices on which New York State and local sales tax has been paid at claiming races within New York State for the same horse during the same calendar year.

Where no previous purchase has been made through a claiming race in New York State in the same calendar year, the full purchase price is subject to sales tax.

The applicable rate of tax is determined, as always, by the locality in which the taxable transaction takes place.

Examples:

1. A horse is claimed at a claiming race at Saratoga Racetrack in August, 1985 for \$15,000. The tax is computed on \$15,000 at the 7% rate prevailing in Saratoga County. When the same horse is subsequently claimed at a claiming race at Belmont Park Racetrack in September, 1985 for \$25,000, the tax is computed at the prevailing rate of 8¼%, but only on \$10,000 (the amount in excess of the previously taxed claiming price).
2. On August 2, 1985 a horse is claimed at Saratoga Racetrack by placing a successful claim of \$15,000 before the start of the claiming race. This horse had not been claimed during 1985 through a claiming race in New York State prior to August 2; however, he had been sold on July 15, 1985 at a private sale in Saratoga. Sales tax is due on the total amount of the claiming price.
3. A successful claim of \$21,000 was placed for a horse at Belmont Park Racetrack on June 3, 1985, before the start of a claiming race. This same horse changed ownership through a claiming race at Aqueduct Racetrack on April 30, 1985 for the claim price of \$19,000. Sales tax was due on the full purchase price of each race, since the new amendment did not take effect until July 1, 1985. If both purchases had taken place after July 1, 1985, sales tax would have been due on \$19,000 (the amount of the first purchase) and on \$2,000 (the difference between \$19,000 and the higher purchase price of \$21,000).

*In a claiming race, a person acquires a horse by making a successful bid before the race. Title is passed once the race begins.

4. A successful claim of \$14,000 was placed for a horse at Saratoga Racetrack on August 30, 1985, before the start of a claiming race. The horse had changed ownership through a claiming race at Churchill Downs in Kentucky on July 6, 1985. New York sales tax is due on \$14,000 since the previous race was not held in New York State.
5. A successful claim of \$17,000 was placed on a horse entered in a claiming race at Saratoga Racetrack on August 4, 1985. The same horse had been claimed through a claiming race at Belmont Park Racetrack on September 11, 1984 for \$15,000. Sales tax is due on \$15,000 and on \$17,000, since the two claiming races were not held within the same calendar year and the first transaction took place before the effective date of this amendment.
6. A horse was claimed several times in the same calendar year through the following claiming races:
 - (1) Belmont Park Racetrack for \$10,000 on July 3, 1985
 - (2) Saratoga Racetrack for \$15,000 on August 12, 1985
 - (3) Belmont Park Racetrack for \$25,000 on September 3, 1985

Sales tax is due as follows:

- (1) Tax is due on the total claim price of \$10,000 on the sale at Belmont (first claiming race after new amendment).
 - (2) Tax is due on \$5,000, the difference between \$10,000 and the higher claim price of \$15,000 at Saratoga.
 - (3) Since tax was previously paid on \$10,000 (sale #1) and \$5,000 (sale #2), tax is now due on \$10,000 of the claim price of sale #3 at Belmont. This was the amount by which sale #3 exceeded the highest of any prior purchase prices paid (sales #1 and #2).
7. A horse was claimed several times in the same calendar year through the following claiming races:
 - (1) Belmont Park Racetrack for \$27,000 on July 5, 1985
 - (2) Saratoga Racetrack for \$20,000 on August 10, 1985
 - (3) Belmont Park Racetrack for \$18,000 on September 2, 1985

Sales tax is due on the claim price of \$27,000, at the first claiming race sale. Since the claim prices of the subsequent sales did not exceed the first claim price at a claiming race sale for 1985, no additional tax is due. A horse was claimed several times in the same calendar year through the following claiming races:

- (1) Belmont Park Racetrack at \$25,000 on July 10, 1985
- (2) Saratoga Racetrack at \$20,000 on August 31, 1985
- (3) Belmont Park Racetrack at \$30,000 on September 5, 1985

Sales tax is due as follows:

- (1) Belmont Park Racetrack - sales tax is due on \$25,000 (the claim price at the first claiming race).
- (2) No tax is due on the claim price of \$20,000 at the second claiming race.
- (3) Sales tax is due on \$5,000 at the time of the third claiming race; this is the amount by which the third purchase price exceeds the highest previous purchase price subject to tax at claiming races during the calendar year of 1985.

Section 1118(3) was amended to provide that the use of a racehorse in New York State will be exempt from use tax to the same extent that the sale of such racehorse would be exempt from sales tax pursuant to the new section 1111(g) of the Tax Law.

Section 1118 was amended to add a new subdivision (10) which provides that a racehorse purchased outside New York State and brought into the State for racing shall not be taxable on any amount in excess of \$100,000.

NOTE: Pursuant to new section 1111(g), effective July 1, 1985, if a purchaser is eligible to pay sales tax on an amount less than the full purchase amount, but actually pays the tax on the total claiming price, such purchaser may file for a refund of the overpayment on Form AU-11. Form AU-11 may be obtained from any New York State District Tax Office or by calling toll-free 1-800-462-8100 from within the State. From outside New York State call 1-518-438-1073.

The completed form, with proper substantiation of the claim, should be sent to:

Casual Sales Unit
Building 9, Room 407
W.A. Harriman State Office Campus
Albany, New York 12227