

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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 Sales Tax
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THE SALES AND USE TAX COMPUTATION FOR
CIGARETTES AND TOBACCO PRODUCTS

Beginning June 1, 1989, an amendment to Section 1111 of the Tax Law establishes a new basis for determining the amount of sales or use tax required to be paid on the sale or use of cigarettes and tobacco products in this state.

Cigarettes

Effective June 1, 1989 the New York State cigarette excise tax at the rate imposed in accordance with Article 20 of the Tax Law (eg: \$.33 per pack of 20) is to be included in the base subject to tax when computing the amount of state and local sales or compensating use tax due on the retail sale of cigarettes. It is no longer permissible to exclude the state cigarette tax from the base upon which the sales or use tax is computed. Thus, both the state and federal excise taxes on cigarettes are now included in the amount upon which the sales or use tax is computed. However, the cigarette excise tax imposed by the City of New York is still excluded from the base upon which sales or use tax is computed. Shown below is a comparison between the old and new methods of computing sales or use tax on a package of cigarettes.

<u>Before June 1, 1989</u>		<u>On or after June 1, 1989</u>	
Sellers cost of product	\$1.03	Sellers cost of product	\$1.12
Add sellers mark up	.07	Add sellers mark up	.07
Add Federal excise tax (if not included in the sellers cost)	.16	Add Federal excise tax (if not included in the sellers cost)	.16
Sub-total	<u>\$1.26</u>	Add state cigarette tax (if not included in the sellers cost)	.33
Compute sales tax (sub-total amount times applicable tax rate)	.10	Sub-total	<u>\$1.68</u>
Add state cigarette tax	.21	Compute sales tax (sub-total amount times applicable tax rate)	.14
Add New York City cigarette tax (NYC only)	.08	Add New York City cigarette tax (NYC only)	.08
Equals total selling price	<u>\$1.65</u>	Equals total selling price	<u>\$1.90</u>

The tax amounts stated in the above comparisons are those in effect on May 31, 1989 and June 1, 1989 and are subject to change. The examples assume sales of a single package of cigarettes at 20 count per pack, and that such sales were made within the City of New York (8 1/4% combined sales tax rate).

Tobacco Products

Effective July 1, 1989 a New York State excise tax is imposed on tobacco products under Article 20 of the Tax Law. The June 1, 1989 change in Section 1111 of the Sales Tax Law will apply to all tobacco products subject to the tax imposed pursuant to Article 20. Therefore, on June 1, 1989, there will be no change in the method of computing the sales or use tax on tobacco products since the state excise tax on tobacco products will not take effect until July 1, 1989. However, on July 1, 1989, when the New York State excise tax on tobacco products becomes effective, the amount of that excise tax must be included in the base upon which the sales or use tax is computed.