

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

TSB-M-90(1) S  
Sales Tax  
June 27, 1990

1989 AMENDMENTS TO THE SALES TAX LAW

ARTICLE 28

| <u>Tax Law Section</u> | <u>Bill Chapter &amp; Section</u> | <u>Reference*</u> | <u>Brief Summary</u>  |
|------------------------|-----------------------------------|-------------------|---|
| 1101(b)(7)             | 61-242                            |                   | <u>Use - Defined.</u> As amended, added the following new language to the definition of the term "use": "Without limiting the foregoing, use also shall include the distribution of only tangible personal property, such as promotional materials." Effective September 1, 1989.   |
| 1101(b)(8)             | 61-246 & 247                      |                   | <u>Vendor - Defined.</u> As amended, added new language to the definition of the term "vendor". The definition of vendor was expanded to include a person who makes taxable sales of property or services in this state, and who regularly or systematically delivers such property or services into New York by other than U.S. mail or common carrier; and a person who regularly or systematically makes taxable sales in New York which were solicited by means of catalogs, advertising flyers, letters or any other means of solicitation. New language was added to define what is meant by "regularly or systematically delivering" and "regularly or systematically soliciting business". Effective September 1, 1989. |
| 1101(b)(9)             | 61-250                            | TSB-M 89(12)S     | <u>Capital Improvement - Defined.</u> As amended, added new language to the definition of the term "capital improvement" which provides that for purposes of determining whether the installation of floor coverings are capital improvements to real   |

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|                        |                                   |                   | property, such installation must be installed as the initial finished floor covering in: 1) new construction; or 2) a new addition to existing construction; or 3) total reconstruction of existing construction. Any other installation of floor covering is specifically excluded as a capital improvement. Effective June 1, 1989.  |
| 1101(b)(12)            | 61-243                            | N-89-29           | <u>Promotional Material - Defined.</u> As added, defines promotional materials as advertising literature, free gifts, applications, order forms, annual reports, promotional displays, cheshire labels, envelopes used to deliver same, related return envelopes and other related tangible personal property, but not including invoices, statements and the like. Effective September 1, 1989.             |
| 1106(h)                | 61-251<br>89(12)S                 | TSB-M             | <u>Transitional Provisions - Floor Coverings.</u> As added, provides that the change in the tax status of installations of floor coverings takes place June 1, 1989, except where the installation was completed before June 1, 1989, but not billed until after June 1, 1989, or where the installation was begun prior to June 1, 1989 but not completed until after June 1, 1989. Effective June 1, 1989. |
| 1107(b)                | 376-1<br>89(19)S                  | TSB-M             | <u>New York City - Temporary Municipal Assistance Sales And Use Tax - Exemption For Purchase of Certain Machinery.</u> As amended, removed the prohibition   |

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|                        |                                   |                   | which prevented New York City from granting an exemption from its local sales and use tax for machinery and equipment used in production as such exemption is provided for in section 1115(a)(12) of the Tax Law. Effective December 1, 1989.  |
| 1110                   | 61-245                            | TSB-M 89(8)S      | <u>Use Tax - Materials Manufactured Out-of-State.</u> As amended, provides that the use tax applies to tangible personal property manufactured, processed or assembled by the user outside the state and subsequently used in this state even if such property is not offered for sale by the user in the regular course of his/her business. Prior to this change the items at issue were taxed only when similar items were offered for sale by the user. Effective September 1, 1989. |
| 1111(h)                | 61-316                            | TSB-M 89(12)S     | <u>Receipt Subject to Tax-Cigarettes and Tobacco Products.</u> As added, provides that the state excise tax imposed on cigarettes and tobacco products must be included in the amount of the selling price of these products before the computation of sales tax is made. Effective June 1, 1989 for cigarettes; effective July 1, 1989 for tobacco products.  |
| 1115(a)(25)            | 668-1                             |                   | <u>Technical Correction.</u> Section 1115 subdivision (a) contained two paragraphs which were both numbered (24). The paragraph which provides a special exemption for certain natural   |

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|                        |                                   |                   | gas was renumbered to be paragraph (25). Effective September 1, 1989.   |
| 1115(a)(27)            | 668-1                             | TSB-M 89(20)S     | <u>Precious Metal Bullion.</u> As added, provides an exemption for precious metal bullion sold for investment when the aggregate sale under a single invoice totals more than \$1,000.00; and further provides that the consideration given must depend solely on the value of the metal content of the bullion and, if applicable, the retailer must be registered as a broker or dealer pursuant to section 359-e of the General Business Law. Precious metal bullion means bars, ingots or coins of gold, silver, platinum, palladium, rhodium, ruthenium, or iridium but not coins of the Republic of South Africa, or bars, ingots or coins used for industrial, professional, esthetic or artistic purposes. Effective September 1, 1989. |
| 1115(m)                | 503-7                             |                   | <u>Training and Maintenance of Racehorses.</u> As amended, modified language to make it clear that training and maintenance of racehorses is exempt from tax only when rendered by a trainer to the racehorse owner. Effective July 19, 1988.   |
| 1115(n)                | 61-244                            | N-89-29           | <u>Promotional Materials.</u> As added, provides an exemption from sales tax for promotional materials mailed, shipped or otherwise distributed from a point within the state, by or on behalf of vendors or other  |

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|                        |                                   |                   | persons to their customers or prospective customers located outside this state. It also provides an exemption for certain services performed on mailing lists used in conjunction with promotional materials. Effective September 1, 1989.  |
| 1116(b)(5)             | 245-4                             |                   | <u>Exempt Organizations- Purchases.</u> As amended, provides an exemption from the sales tax on diesel motor fuel purchased by an organization described in section 1116(a)(4) of the Tax Law, provided such fuel is used exclusively for the exempt organization's own heating use and consumption. Effective July 5, 1989.  |
| 1131(1)                | 61-248                            | N-89-29           | <u>Persons Required to Collect Tax - Defined.</u> As amended, provides that persons who meet the definition of vendor as a result of paragraphs (D) and (E) of section 1101(b)(8) are not required to collect tax until twenty days after they must file for a certificate of registration as mandated by section 1134 of the Tax Law. Effective September 1, 1989. |
| 1131(5)                | 61-232                            |                   | <u>Show Promoter - Defined.</u> As amended, changes the title of the definition of "promoter" to "show promoter". Effective June 1, 1989.   |
| 1131(7)                | 61-233                            | TSB-M 89(9)S      | <u>Entertainment Promoter-Defined.</u> As added, defines entertainment promoter, in part, as any person who owns or operates any place where an entertainment event is held and   |

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|                        |                                   |                   | taxable sales take place. Entertainment promoters include persons who rent space to vendors making sales at an entertainment event, authorize vendors to make sales at such an event, or have any management responsibility over vendors making sales at such an event. Effective June 1, 1989.   |
| 1131(8)                | 61-233                            | TSB-M 89(9)S      | <u>Entertainment Event - Defined.</u> As added, defines an entertainment event, as a concert, athletic contest or exhibition (other than an amateur sports competition) or similar form of entertainment held at a place which can accommodate more than 1,000 persons. Effective June 1, 1989.   |
| 1131(9)                | 61-233                            | TSB-M 89(9)S      | <u>Entertainment Vendor - Defined.</u> As added, defines entertainment vendor as any person who makes sales of tangible property at an entertainment event. Effective June 1, 1989.   |
| 1134(a)(1)             | 61-249                            |                   | <u>Registration.</u> As amended, provides that persons who meet the definition of vendor by virtue of section 1101(b)(8)(i)(D) of the Tax Law, must file a certificate of registration with the Tax Department within 30 days after the twelfth delivery into this state; and provides that persons who become vendors under section 1101(b)(8)(i)(E) must register within 30 days after the 100 <sup>th</sup> sale. Effective September 1, 1989. |

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| 1134(b)                | 61-234                            |                   | <u>Registration - Show Promoter.</u> As amended, requires show promoters to obtain a permit from the Tax Department before opening a show in this state. Makes a technical correction to the law by substituting the term "show promoter" for the term "promoter" everywhere such term appeared in the statute. Effective June 1, 1989.   |
| 1134(c)                | 61-235                            | TSB-M 89(9)S      | <u>Registration - Entertainment Promoter.</u> As added, requires an entertainment promoter to file a notice and application for an entertainment promoter certificate with the Tax Department at least twenty days prior to an entertainment event. Provides that an entertainment promoter may not allow any person to make taxable sales at an entertainment event without a certificate of authority to collect tax. Provides that show promoters who make sales of tangible property must comply with all provisions of law applicable to other vendors in addition to the specific requirements of an entertainment promoter. Gives entertainment promoters administrative hearing rights with regard to a denial or revocation of an entertainment promoters certificate. Effective June 1, 1989. |
| 1135(b)                | 61-236                            |                   | <u>Record Keeping Requirements-Show Promoters.</u> As amended, requires show promoters to keep a record of the date and place of each show and the name of every vendor making sales at such shows. Effective June 1, 1989.   |

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| 1135                   | 61-237                            | TSB-M 89(9)S      | <u>Recordkeeping Requirements- Entertainment Promoters.</u> As amended, reletters subdivisions (c) & (d) to (d) & (e), respectively, and adds a new subdivision (c) which requires every entertainment promoter to keep records of the date and place of each entertainment event and the name of every vendor making sales at such event. Effective June 1, 1989. |
| 1136(f)                | 61-238                            |                   | <u>Returns - Show Promoters.</u> As amended, requires show promoters to file a monthly report with the Tax Department which lists the dates and places of shows held during the prior month and lists the name and the certificate of authority number of each vendor making sales at such shows. Effective June 1, 1989.  |
| 1136                   | 61-239                            | TSB-M 89(9)S      | <u>Returns- Entertainment Promoters.</u> As added, requires every entertainment promoter to file a monthly report with the Tax Department listing the dates and places of events held during the prior month along with the name and the certificate of authority number of each vendor making sales at such events. Effective June 1, 1989.                       |
| 1139(d)                | 61-128                            |                   | <u>Refunds or Credits - March Estimate Return.</u> As amended, provides that the interest payable on an excess payment remitted with the March estimated return is payable at the "overpayment rate" Effective July 1, 1989.   |

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| 1142(9)                | 61-129                            | TSB-M 90(2)S      | <u>General Powers of the Tax Commission - Setting Interest Rates.</u><br>As amended, provides for different rates of interest to be set for unpaid taxes or late paid taxes (under payments) and excess taxes paid (overpayments). Sets overpayment and underpayment rates at the percentages determined under section 1096 of the Tax Law. Effective July 1, 1989.                            |
| 1145(a)                | 61-130-133                        | TSB-M             | <u>Penalties and Interest.</u> As 90(2)S amended, provides that interest assessed on under payments and late payments of tax will be computed at the underpayment rate, (except where otherwise indicated). Effective June 1, 1989.  |
| 1145(f)                | 61-240                            |                   | <u>Penalties and Interest- Additional Penalties for Entertainment Promoters.</u><br>As added, provides that a penalty of not more than \$10,000 may be imposed on an entertainment promoter if such promoter is found to have allowed a vendor who did not have a valid certificate of authority issued by the Tax Department to make sales at an entertainment event. Effective June 1, 1989. |

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ARTICLE 29

| <u>Tax Law Section</u> | <u>Bill Chapter.&amp; Section</u>           | <u>Reference*</u> | <u>Brief Summary</u>   |
|------------------------|---|-------------------|--|
| 1201(c)                | 241-38                                      |                   |  |
|                        | <u>Privilege Tax.</u> As amended, redefines |                   | <u>New York City Authorization for "coin-operated amusement devices" as amusement devices operated by coins, tokens or currency. Also expands the devices subject to tax to include pool or billiard tables, booths providing live entertainment, and video devices. Effective July 1, 1989.</u> |
| 1201(1)                | 241-39                                      |                   |  |
|                        |   |                   | <u>New York City Authorization for Privilege Tax. As added, authorizes a privilege tax of up to \$150.00 per annum for amusement devices operated by coins, tokens or currency, in addition to any privilege tax imposed under section 1201(e) of the Tax Law. Effective July 1, 1989.</u>       |
| 1202-j                 | 255-1                                       |                   |  |
|                        |   |                   | <u>Authorization for Otsego County Hotel/Motel Occupancy Tax. As added, gives Otsego County authorization to impose a tax (not to exceed 2%) on the daily rental charge collected from persons occupying rooms in hotels or motels within the county. Effective July 7, 1989.</u>                |
| 1202-j                 | 353-1                                       |                   |  |
|                        |   |                   | <u>Authorization for Sullivan County Hotel/Motel Occupancy Tax. As added, gives Sullivan County authorization to impose a tax (not to exceed 2%) on the daily rental charge collected from persons occupying rooms in hotels, motels, inns, tourist</u>  |

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|                        |                                   |                   | facilities and similar establishments within the county. Effective July 12, 1989.   |
| 1202-j                 | 365-1                             |                   | <u>Authorization for Tioga County Hotel/Motel Occupancy Tax.</u> As added, gives Tioga County authorization to impose a tax (not to exceed 2%) on the daily rental charge collected from persons occupying rooms in hotels, motels, inns, tourist facilities and similar establishments within the county. Effective January 1, 1990.         |
| 1202-j                 | 366-1                             |                   | <u>Authorization for Chautauqua County Hotel/Motel Occupancy Tax.</u> As added, gives Chautauqua County authorization to impose a tax (not to exceed 3%) on the daily rental charge collected from persons occupying rooms in hotels, motels, inns, tourist facilities and similar establishments within the county. Effective July 12, 1989. |
| 1210                   | 3-1                               | TSB-M 89(6)S      | <u>Authorization for Erie County to Increase the Local Tax Rate.</u> As amended, authorizes Erie County to adopt and amend local laws or resolutions imposing an additional 1% sales tax (over and above its 3% sales tax) for the period beginning March 1,  |

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|------------------------|-----------------------------------|----------------------|---|
|                        |                                   |                      | 1989 and ending February 28, 1990. Effective February 10, 1989.   |
| 1210(a)                | 376-2                             | <u>TSB-M 89(19)S</u> | <u>New York City - Temporary Municipal Assistance Sales and Use Tax - Exemption for Purchase of Certain Machinery.</u> As amended, authorizes New York City to grant an exemption from sales tax for machinery and equipment used directly and predominantly in the production of tangible personal property for sale by manufacturing, processing, generating, assembling, refining, mining, extracting, farming, agriculture, horticulture or floriculture. Effective December 1, 1989. |
| 1210                   | 262-2                             | <u>TSB-M 89(16)S</u> | Authorization for Allegany County to Extend its Additional 1% Local Sales Tax. As amended, authorizes Allegany County to extend its 1% local tax, which is in addition to the 3% rate authorized for this county, until November 30, 1992. Effective July 7, 1989.  |
| 1212-A (h)(2)(i)       | 241-94                            | <u>TSB-M 89(21)S</u> | New York City Tax on Selected Services. As amended, gives the City of New York authorization to extend its local tax on credit rating and credit reporting services, detective and protective services, interior decorating and design services and interior cleaning and maintenance services,   |

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|----------------------------|---|-------------------|--|
|                            |   |                   | through December 31, 1990. Effective<br>January 1, 1990.   |
| 1262(c)                    | 672-1                                     |                   | Orange County - Distribution of<br>County Sales Tax. As added, provides<br>that the distribution of Orange County<br>sales tax revenue to certain villages<br>(except the Village of Highland Falls)<br>shall be determined by the ratio that<br>the village population bears to the<br>total population of the entire town.<br>Effective July 22, 1989. |

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