

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

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Sales Tax
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Important Notice

Tax Law Changes

Credit for Collection of Sales Taxes

Effective September 1, 1994, taxpayers who are required to file quarterly or annual sales and use tax returns may take a 1 1/2% credit on their returns against the sales tax collected from their customers. The credit is to be computed on the amount of **New York State** sales tax that is required to be collected on taxable sales made during the filing period. The credit is **not allowed** against any tax attributable to the following sources:

- sales or use taxes imposed by localities (counties, cities, and school districts), or the 1/4% tax imposed in the Metropolitan Commuter Transportation District;
- the prepaid tax on motor fuel or diesel motor fuel;
- the 5% special tax on passenger car rentals;
- the additional 5% tax imposed on sales of information and entertainment services offered by means of telephone or telegraph; or
- the New York State use tax.

The credit is equal to 1 1/2% of the amount of New York State sales tax required to be collected on eligible sales, up to a maximum credit of \$100 per return. It is not to be computed on any use tax. The credit may be taken on quarterly returns required to be filed for periods beginning on or after September 1, 1994 (the first quarterly return on which the credit can be claimed is the return due for the period September 1, 1994 to November 30, 1994). The credit may be taken on annual returns required to be filed after September 1, 1994 (the first annual return on which the credit can be claimed is the return due for the period June 1, 1994 to May 31, 1995; however, the credit can only be taken against New York State sales taxes collected for the period September 1, 1994 through May 31, 1995). The credit may not be taken on part-quarterly (monthly) returns. The credit may be taken only on returns that are timely filed, and only if the amount of tax shown due on the return, after allowance for the credit, is timely paid. (Section 1137(f) of the Tax Law, effective September 1, 1994)

Lubricating Oil

Effective September 1, 1994, the tax of \$.10 (10 cents) per quart imposed on the retail sale and certain uses of lubricating oil within New York State is repealed. Those vendors and users of lubricating oil who were subject to this tax were required to report the tax on their quarterly sales and use tax returns. The criminal penalties relating to the lubricating oil tax are also repealed. (Article 24 and Section 1821 of the Tax Law, repealed effective September 1, 1994)

Hotel Occupancy Taxes

Special Hotel Occupancy Tax -- Effective September 1, 1994, the additional 5% tax imposed on hotel occupancy is repealed. This tax was imposed where the rate charged was \$100 or more per day. The additional 5% tax will not be imposed on any hotel occupancy occurring on or after September 1, 1994, even if there is a prior contract, lease or other rental agreement. Where a rental agreement covers a period that begins before and ends after September 1, 1994, the total rent charged for that period of occupancy must be prorated. (Section 1104 of the Tax Law, repealed effective September 1, 1994)

Hudson River Valley Greenway Fee -- Effective July 1, 1994, the 2/10% (.002) tax on occupancy of hotel rooms in the area designated as the "Hudson River Valley Greenway" is repealed. The tax will not be imposed on any occupancy occurring on or after July 1, 1994, even if the occupancy is under a prior contract, lease or other rental agreement. Where a rental agreement covers a period that begins before and ends after July 1, 1994, the total rent charged for that period of occupancy must be prorated. (Section 1104-a of the Tax Law, repealed effective July 1, 1994)

Medical Alarm/Alert Services

Effective September 1, 1994, medical alarm and medical alert services ("alarm call" services) which are designed specifically to respond to medical emergencies are exempt from sales and use tax. The exemption applies to all services rendered on or after September 1, 1994, even though the services are rendered under a prior contract. The exemption does not apply to any tangible personal

property sold in conjunction with the service. (Section 1115(r) of the Tax Law, added effective September 1, 1994)

Motor Vehicles

Effective December 1, 1994, nonresidents of New York State who purchase and take delivery of a motor vehicle in this state will not be eligible for an exemption from sales tax if they:

- register the vehicle in this state prior to registering the vehicle in another state; or
- obtain from the dealer a temporary certificate of registration under section 420.7 of the Vehicle and Traffic Law, or a temporary registration under section 420-A of the Vehicle and Traffic Law.

A nonresident of New York State who is required to pay sales tax on the purchase of a motor vehicle must pay the rate in effect in the local jurisdiction in which the vehicle is delivered. (Section 1117 of the Tax Law, amended effective December 1, 1994)

Electronic Funds Transfers (EFTs)

The threshold for mandatory participation in the Electronic Funds Transfer (EFT) program has been lowered. Any taxpayer who was liable for more than \$4 million in state and local sales and compensating use taxes for the period June 1, 1992 through May 31, 1993 must enroll in the EFT program, and make tax payments by electronic funds transfer or certified check. Those taxpayers who are required to participate in the EFT program because of this law change will be notified by the Department of Taxation and Finance. Once notified, the taxpayers will have 45 days to enroll in the program. The first payment will be due from these new participants in December, 1994. The hardship provisions were also amended to reflect this change. (Sections 10(b)(1)(A) and 10(b)(4) of the Tax Law, amended effective June 1, 1994)

Certificates of Authority

Registration Periods -- Effective September 1, 1994, a certificate of authority may be issued to a show vendor, an entertainment vendor, or a temporary vendor for a specified term of less than three years. (Section 1134(a) of the Tax Law, amended effective September 1, 1994)

Show Vendor Defined -- The term "show vendor" was added to the Tax Law. A "show vendor" is defined as any person who, at a show, makes taxable sales of tangible personal property or services, or displays such property or

services for sale. (Section 1131 of the Tax Law, amended effective September 1, 1994)

Temporary Vendor Defined -- The term "temporary vendor" was added to the Tax Law. A "temporary vendor" is defined as a person, other than a show vendor or an entertainment vendor, who makes taxable sales of tangible personal property or services in no more than two consecutive sales tax quarters in any twelve month period. (Section 1131 of the Tax Law, amended effective September 1, 1994)

Sales to Itinerant Vendors

Effective March 1, 1995, the Commissioner of Taxation and Finance may, by regulation, require any person who is registered or required to be registered as a vendor for sales tax purposes to file a report regarding sales of tangible personal property or services to itinerant vendors when those sales are sales for resale. An "itinerant vendor" is defined as a person with no permanent and fixed place of business in New York State from which taxable sales of tangible personal property or services are made. The term includes street peddlers, show vendors, and any similar vendor who moves from place to place offering property or services for sale for immediate delivery. The term does not include a person who makes sales of goods or services by sample, brochure or catalogue for future delivery. (Section 1136(h) of the Tax Law, added effective March 1, 1995)

Other Changes

Promotional Materials - Existing policy that exempts charges to a vendor's customer for the cost incurred by the vendor in shipping or delivering promotional materials by means of the United States Postal Service has been codified. The exemption applies only to those mailing costs for U.S. postage that are separately stated on the invoice or other receipt given to the vendor's customer. (Section 1115(n) of the Tax Law, added effective retroactively to September 1, 1991)

Informational/Entertainment Services -- An additional 5% tax on information and entertainment services that are provided, furnished or delivered by means of telephone or telegraph service (such as through 800 or 900 telephone numbers), mass announcement services, or interactive information network services, was enacted September 1, 1993. The Tax Law has been amended to clarify that the additional 5% is imposed only on those services that are received by the customer aurally (that is, that can be heard by the customer), and which do not include a written component. (Section 1105(c)(9) of the Tax Law, amended effective retroactively to September 1, 1993)