



Important Notice

N-94-1

(2/94)

Requirements for Agents of an Industrial Development Agency or Authority – Initial Report Due February 28, 1995 –

Section 874 of the General Municipal Law (GML) and sections 1963-a(9) and 2327(9) of the Public Authorities Law were recently amended to require every agent of an Industrial Development Agency or Authority (i.e., an IDA) to file an annual statement with the New York State Department of Taxation and Finance (the department) to report the value of all sales and compensating use tax exemptions claimed by the agents, as well as by the agents' agents, consultants, contractors and subcontractors. The term "agent of an IDA" or "IDA agent" includes project occupants and project operators.

Each IDA agent will be required to file an annual report for the calendar year (January 1 - December 31). The report must be filed by the last day of February following the year covered by the report. However, since the reporting requirement applies to IDA projects commenced on or after October 19, 1993, the initial report will cover the period October 19, 1993, through December 31, 1994. The initial report must be filed by **February 28, 1995**. Forms for reporting the required information will be made available by the department to agents and Industrial Development Agencies and Authorities before the filing due date. **Failure to complete and file the annual report will result in the revocation of the agent's authority to act as an IDA agent.**

The annual report to the department must contain the amount of sales and use tax exemptions claimed with respect to each IDA project. For purposes of this report, the exemption claimed includes the amount of sales and use taxes saved on the project due to the "agent" status conferred upon the project operator/occupant by the IDA. The amount of sales and use tax exemptions arising under the Tax Law is **not** included in the report.

Example:

JOMA Associates, a manufacturing company, is appointed agent by an IDA for purposes of constructing and equipping a manufacturing facility. In order to complete the project under the terms of the bid, JOMA Associates hires a general contractor who, in turn, hires subcontractors to work on the project. JOMA must

compile the total amount of the sales and use tax exemptions claimed with respect to the project by the general contractor or any subcontractor or other agent by reason of JOMA's status as agent of the IDA. JOMA must also determine the amount of exemptions it claimed relating to its own purchases for the project and report these amounts on the annual report required to be filed with the department.

JOMA may also be entitled to other sales and use tax exemptions, independent of its appointment as agent of the IDA. For example, it may purchase raw materials used in its manufacturing process under the resale exemption. JOMA may also purchase its manufacturing equipment exempt from tax under the production exemption. JOMA should not include in the annual report the value of any sales and use tax exemptions it may enjoy separate and apart from its involvement in an IDA project. JOMA must report only the value of the sales and use tax exemptions that result from involvement in JOMA's IDA project.

IDA agents must file a separate annual report for each IDA project. The report must indicate the type of project (e.g., retail, manufacturing, etc.), the date the project began and the date the project ended or is expected to end. In addition, the IDA agent must state the date any construction began and the known or expected duration of the construction phase of the project. The report must also indicate the total sales and use tax exemptions claimed with respect to the project for each contractor, subcontractor, consultant or other agent of the IDA agent for the period covered by the report. Since the IDA agent is responsible for reporting sales and use tax exemptions claimed with respect to the project, it is important that the IDA agent inform any contractors, subcontractors, consultants and other agents of the IDA agent working on the project of the necessity of reporting all information concerning any applicable sales and use tax exemptions to the IDA agent, so that the IDA agent can comply with its reporting requirements.