



New York State and Local Sales and Use Tax

Important Information for Business Owners

Your responsibilities under the New York State and local sales and use tax laws

This publication provides important information for business owners regarding their responsibilities under the New York State and local sales and use tax (sales tax) laws. Your responsibilities include registering for sales tax purposes, collecting tax, keeping complete and accurate records, filing returns, and paying sales taxes with your returns. Once you are registered for sales tax purposes, you become a trustee for New York State and for each of the counties and cities whose tax you collect. As a trustee, you have a personal responsibility to collect the proper amount of sales tax from your customers and to pay the tax you have collected with your timely filed sales tax return. Failure to collect tax and failure to remit the sales tax you have collected are crimes.

Following the guidance in this publication and other sales tax information available from the Tax Department will help you to comply with your sales tax responsibilities. Understanding your sales tax responsibilities will help you to avoid the payment of any interest or penalties. Our goal is that all persons required to be registered for sales tax purposes register, meet their tax obligations, and voluntarily collect and pay the correct amount of sales tax due on time.

The tax bulletins and publications mentioned in this publication are available on the department's Web site, www.tax.ny.gov. The electronic version of this publication contains links to all of the documents referenced in this publication. You can access our Web version of this publication at the web address provided above. Also, see the *For more information section* at the end of this publication.

Note: This publication describes the sales and use tax obligations of businesses or persons that are registered or required to be registered for sales tax purposes. For information on the sales and use tax obligations of businesses or persons not registered or required to be registered, see Tax Bulletin [Use Tax for Businesses \(TB-ST-910\)](#).

Background

If you make taxable sales of tangible personal property, perform any taxable services, sell food or drink, receive amusement charges, or operate a hotel or motel, you must register for sales tax purposes and obtain a *Certificate of Authority*. If you are acquiring all or part of the assets of an existing business that is registered or required to register for sales tax purposes, you must also register (see, *Purchase or sale of business assets*). In addition, you must be registered for sales tax purposes in order to issue or accept most New York State sales tax exemption certificates or documents. For example, even though most wholesalers may not be required to collect sales tax because all of their sales are for resale (and, therefore, are not subject to sales tax), they must still be registered for sales tax purposes to legally issue and accept most exemption certificates or documents.

Registering for sales tax purposes

You cannot legally make taxable sales or issue or accept most New York State exemption certificates or documents until you have registered for sales tax purposes and received a *Certificate of Authority*. You must apply for your *Certificate of Authority* at least 20 days before you begin operating your business and making taxable sales, issuing or accepting exemption documents, or acquiring assets of an existing business. For information on how to apply for your *Certificate of Authority*, see Tax Bulletin [How to Register for New York State Sales Tax \(TB-ST-360\)](#).

Once you are registered for sales tax purposes, your obligations include, but are not limited to:

- collecting the proper amount of state and local sales tax from your customers (see Tax Bulletin [Taxable Receipt \(TB-ST-860\)](#));
- keeping adequate records related to your business activities as a person registered for sales tax purposes (see *Record-keeping requirements*);
- filing sales tax returns on time, even if no tax is due (see *Filing and payment requirements*);
- paying any sales taxes due with your return (see *Filing and payment requirements*); and
- keeping your registration data (such as, change of address or responsible persons) up to date. (Visit the [Online Services](#) section of our Web site or see [Forms DTF-95](#), *Business Tax Account Update*, and [DTF-96](#), *Report of Address Change for Business Tax Accounts*.)

About your *Certificate of Authority*

Once you receive your *Certificate of Authority*, you are a person registered for sales tax purposes and are authorized and required to collect state and local sales tax in New York State and to issue and receive New York State and local sales tax exemption certificates or documents. In addition, you are considered to be in business for sales tax purposes, even if you never make a sale or never open the doors of your establishment. Therefore, it is important that you file your sales tax returns on time in order to avoid being subject to penalties for not filing, even if you did not have any taxable sales during the reporting period.

You must prominently display your *Certificate of Authority* at your place of business or at each of your places of business, if you have more than one. If you have no permanent location, you must attach it to your truck, cart, wagon, stand, or other vehicle or facility from where you conduct your business.

A *Certificate of Authority* is not transferable or assignable. If you buy an ongoing business, you may need to apply for your own *Certificate of Authority* (see *Purchase or sale of business assets*). If you sell your business or cease doing business, you must indicate on your last return that it is your *Final Return* and you must surrender your *Certificate of Authority* to the Tax Department. See Tax Bulletin [Filing a Final Sales Tax Return \(TB-ST-265\)](#) and Tax Bulletin [Amending or Surrendering a Certificate of Authority \(TB-ST-25\)](#).

You do not have to renew your *Certificate of Authority* unless you are notified to do so by the Tax Department.

Suspension or revocation of your *Certificate of Authority*

Your *Certificate of Authority* may be suspended or revoked by the Tax Department for any of the following reasons:

- You willfully fail to file a report or return required under the sales tax law.
- You willfully file, cause to be filed, give, or cause to be given a report, return, certificate, or affidavit required under the sales tax law that is false.
- You willfully fail to collect, truthfully account for, or pay over any state and local sales tax.
- You willfully fail to keep adequate records and were convicted of a crime for that willful failure.
- You have been convicted of a crime under the Tax Law and the conviction occurred within one year of the date of such revocation or suspension.
- You willfully fail to file a bond or establish a trust account and make payments as provided in section 1137(e)(2) or (3) of the Sales and Use Tax Law, if you are notified by the Tax Department to do so.

If the Tax Department decides to suspend or revoke your *Certificate of Authority*, you will receive a notice of proposed suspension or revocation by certified or registered mail. The notification will:

- state the basis for the suspension or revocation of your *Certificate of Authority*;
- notify you that the impending suspension or revocation will take effect unless you challenge the proposed action; and
- provide you with information on how to schedule a hearing or to request a conciliation conference.

If a suspension or revocation of your *Certificate of Authority* takes effect, you are required to immediately return your *Certificate of Authority* to the Tax Department. In addition, **you must discontinue making sales** of taxable tangible personal property or services, and **you must discontinue accepting or issuing** exemption documents, which means you may be out of business.

Record-keeping requirements

General

As a person registered for sales tax purposes, you must keep accurate and complete records that contain all the information you need to prepare your sales tax returns and to verify their accuracy in case you are audited by the Tax Department. No one set of record-keeping rules applies to all vendors. However, your records must be appropriate for your particular operation or business and any record-keeping systems or equipment you use. Records may be kept in paper or electronic format. If you choose to keep records in electronic format, they must actually reproduce the original record. Electronic records must be available and accessible to the Tax Department, even if the records are also maintained in paper form.

Your sales tax records must be kept for at least three years after the due date of the last return to which they relate or the date the return was filed, if later. Your records must be made available to the Tax Department upon request. If you have any sales tax matter pending with the Tax Department for a period more than three years, the records for that period should be kept until the matter is resolved. For more information on recordkeeping, see Tax Bulletin [Record-Keeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#).

Types of records that must be kept:

Following are the types of records that must be kept for sales tax purposes:

Records of all sales, hotel or motel rents, and amusement charges including:

- The amount paid, charged, or due on the sale or other transaction, along with any subsequent return or credit information related to the sale or transaction.
- The sales tax due, if any, on the sale or other transaction.
- A copy of any written sales slip, invoice, receipt, or other evidence of the price, amusement charge or hotel or motel rent that you gave your customer.
- A daily record of all cash, debit, and credit sales or other transactions.
- The location where the sale or other transaction was made, or if applicable, where delivery was made.
- An exemption certificate or document, where required, associated with each exempt sale or other transaction you make.

Records of all business purchases, whether taxable or exempt, including:

- Business purchases you make using exemption certificates or documents.

- Purchases of taxable property or services purchased for your business, without the payment of sales tax (for example, business supplies or equipment purchased in another state or over the Internet). **Note:** You must pay any use tax you owe on these purchases when you file your sales tax return. For more information on use tax, see Tax Bulletin [Use Tax for Businesses \(TB-ST-910\)](#).
- Any other record or document which, given the nature of your business, would be necessary to prove that you have collected and paid the proper amount of sales tax due.

In addition, if you are an operator of a parking facility in Manhattan, you have certain additional record-keeping requirements. For more information about these requirements, see [Form TP-832, Special Requirements for Parking Facilities Operators* Located in New York County \(Manhattan\) Made Permanent](#).

Furthermore, additional record-keeping requirements apply to materialmen and show and entertainment promoters. Tax Bulletin [Record-Keeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#), provides references to detailed information on record-keeping requirements for these types of businesses.

Failure to keep adequate records

If your business records are adequate as described above, and the Tax Department conducts a sales tax audit on your business, we must conduct a full audit examination using all of your business records, unless you consent to a test period or statistical sample audit.

However, if our auditors properly request your records and after evaluating them, conclude that your business records are not adequate, they may use an estimated audit method that is reasonably designed to calculate your state and local sales tax liability. If you wish to contest the method, you must prove by clear and convincing evidence that the method is unreasonable or that the resulting liability is wrong. The liability would not be canceled even if you can show that we could have used a more accurate method, as long as the method used was reasonable.

You should also be aware that you may be held personally responsible for the sales tax liability of your business (see *Responsible Persons*). In addition, if you are convicted of a crime based on your willful failure to keep adequate records, your *Certificate of Authority* could be suspended or revoked. If your *Certificate of Authority* is suspended or revoked, **you must discontinue** making sales of taxable tangible personal property or services or tax exempt purchases, such as purchases for resale, which means you may be out of business.

Filing and payment requirements

As a person registered for sales tax purposes, you must file sales tax returns on time and pay any sales tax due, **even if you have no tax due** for the filing period. Your sales tax return is due not later than 20 days after the end of the period to which it relates. Sales Tax Web File is a fast and easy way to file returns and make payments. Certain sales tax filers are required to use Web File to file returns and pay any balance due electronically. You could be subject to a penalty if you are required to Web File and pay and you fail to do so. Other filers may elect to voluntarily Web File. For more information on your filing requirements as a person registered for sales tax purposes and information on how to file, see Tax Bulletin [Filing Requirements for Sales and Use Tax Returns \(TB-ST-275\)](#).

When you first become registered for sales tax purposes, you will be classified as a quarterly filer unless you meet the conditions to be automatically classified as an annual filer. To be classified as an annual filer, you must indicate on your application for registration that you are a manufacturer or wholesaler and you are not required to collect sales tax or remit any tax directly to the Tax Department.

Sales tax quarterly returns cover the periods March 1 through May 31, June 1 through August 31, September 1 through November 30, and December 1 through February 28 (29 in a leap year). Therefore, if you are a quarterly filer, you must file your sales tax returns by June 20, September 20, December 20, and March 20 each year. If you are classified as an annual filer, your annual return will cover the period March 1 through February 28 or 29 of the following year. Therefore, your return is due by March 20 of each year.

You will be reclassified to monthly filing status if your combined total of taxable receipts, purchases subject to tax, hotel or motel rents, and amusement charges is \$300,000 or more in a quarter. The change to monthly filing

status begins with the first month of the next sales tax quarter. You must then continue to file monthly returns until you no longer meet the above conditions for four consecutive quarters.

You will be reclassified as an annual filer if your total tax due does not exceed \$3,000 for the four most recently filed quarterly periods. The Tax Department will notify you if we reclassify you as an annual filer.

If you are a quarterly filer and the Tax Department deems it necessary to protect sales tax revenues, it may notify you that you must file monthly returns, as specified in its notice to you.

Responsible persons

The Tax Law imposes personal responsibility for payment of sales tax on certain owners, officers, directors, employees, partners, or members (together, *responsible persons*) of a business that has an outstanding sales tax liability. Being personally liable means that your personal assets could be taken by the Tax Department to satisfy the sales tax liability of your business. You may be held personally responsible even if you have an employee or an accountant handle your sales tax matters. In addition, you may be held personally responsible even though your business is a corporation or a limited liability company.

Failure to comply with your responsibilities under the sales tax law

If you do not pay the proper amount of sales tax due on time, you will be charged interest, compounded daily, on the amount you didn't pay. In addition, various civil and criminal penalties may apply if you fail to comply with your responsibilities as a person registered for sales tax purposes.

For example, it is a crime for a person registered or required to be registered for sales tax purposes to:

- willfully file a return that the person knows contains false information;
- willfully sell property or services subject to tax without having a valid *Certificate of Authority*;
- willfully fail to keep any required records;
- willfully fail to collect sales tax from a customer; or
- willfully fail to pay any sales tax collected in his or her capacity as a trustee of the State.

See Tax Bulletin [Sales and Use Tax Penalties \(TB-ST-805\)](#), to learn more about the penalties associated with sales tax.

Show and entertainment promoters

If, during a calendar year, a show promoter operates four or more shows, or leases property or space to others who, in aggregate, operate four or more shows, the show promoter must file [Form DTF-723, Application for Show Permit and Notice of Show](#), at least ten days before the fourth show. Further, a show promoter cannot let anyone at the show offer for sale, or sell taxable products or services unless that person is registered for sales tax purposes with the Tax Department. For more information on show promoters, see [Publication 750, A Guide to Sales Tax in New York State](#).

If sales of tangible personal property are going to be made at one or more entertainment events, the entertainment promoter must file [Form DTF-728, Application for Entertainment Promoter Certificate](#), at least 20 days before the first entertainment event is held. An entertainment promoter cannot let anyone at the entertainment event offer for sale, or make sales of, taxable tangible personal property unless that person is registered as a sales tax vendor. For more information on entertainment promoters, see Publication 750.

Purchase or sale of business assets

If you are required to be registered for sales tax purposes and you plan to sell or transfer your business assets other than in the ordinary course of business, you must give the prospective purchaser [Form TP-153](#),

Notice to Prospective Purchasers of a Business or Business Assets. Form TP-153 advises the purchaser that he or she must file [Form AU-196.10, Notification of Sale, Transfer, or Assignment in Bulk](#), with the Tax Department. A purchaser who fails to file Form AU-196.10 or who fails to wait for the Tax Department's response to that form, or who fails to put the money for the purchase in an escrow account if told to do so, becomes liable for taxes owed by the seller of the assets, even if the seller did not give Form TP-153 to that purchaser. For more detailed information on the purchase or sale of business assets, see [Publication 750, A Guide to Sales Tax in New York State](#).

For more information

This publication provides general information to business owners and responsible persons regarding their responsibilities under the New York State and local sales tax laws. The Tax Department also publishes many industry-specific sales tax bulletins, publications, and other sales tax guidance documents to assist you. You may access our Web site at www.tax.ny.gov to obtain copies of our bulletins, publications, forms, and other guidance documents, or you may visit our Business Taxpayer Answer Center to find answers or to ask questions. To navigate directly to sales tax bulletins from the department's homepage just enter *Bulletins* in the search box at the top of the homepage. For further assistance, see *Need help?*

NOTE: A publication is an informational document that addresses a particular topic of interest to taxpayers. Publications are updated regularly and are accurate on the date issued. However, subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, and changes in Tax Department policies can each affect the validity of the information contained in a publication.

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Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.