

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivision First of section 171, subdivisions (b) and (c) of section 1133, subdivisions (1) and (8) of section 1142, and section 1250 (not subdivided) of the Tax Law and pursuant to Part R3 of Chapter 62 of the Laws of 2003, as amended by Part V of Chapter 686 of the Laws of 2003, the Commissioner of Taxation and Finance hereby proposes to make and adopt the following amendments to the Sales and Use Taxes Regulations, as published in Subchapter A of Chapter IV of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, such amendments to read as follows:

Section 1. Subdivision (a) of section 531.6 of the regulations is amended to read as follows:

(a) Any person[,] who is not required to file periodic returns under section 533.3(a) of this Title[,] and who purchases or uses property or services subject to the sales or compensating use tax must file a [Purchaser's Report of Sales and Use Tax] report of sales and use tax with the Department of Taxation and Finance and pay the taxes that are due. [Also, any person not required to file periodic returns who purchases or uses property or services subject to the sales tax and who has not paid the tax to the seller must file a Purchaser's Report of Sales and Use Tax.]

Section 2. The examples in subdivision (b) of section 531.6 of the regulations are REPEALED, and the opening clause of such subdivision is amended to read as follows:

(b) [The Purchaser's Report of Sales and Use Tax] Except as otherwise provided in this section, the report of sales and use tax must be filed and the tax paid within 20 days from the date that:

Section 3. Subdivision (c) of section 531.6 of the regulations is amended to read as follows:

(c) A [Purchaser's Report of Sales and Use Tax] report of sales and use tax may be obtained from the Department of Taxation and Finance [by contacting the Taxpayer Assistance Bureau at the phone number or address listed in section 525.3(c) of this Title. In the case of]. For sales and purchases of motor vehicles, snowmobiles, vessels, and all terrain vehicles, however, see subdivision (f) of this section.

Section 4. Subdivision (d) of section 531.6 of the regulations is amended to read as follows:

(d) A properly completed [Purchaser's Report of Sales and Use Tax] report of sales and use tax is to be prepared in accordance with the instructions provided by the Department of Taxation and Finance.

Section 5. Subdivision (f) of section 531.6 of the regulations is amended to read as follows:

(f) "Purchases and uses of motor vehicles, snowmobiles, vessels, and all terrain vehicles." (1) Before any motor vehicle, snowmobile, vessel, or all terrain vehicle may be registered or any application for a certificate of title of a motor vehicle or vessel may be accepted, the appropriate State and [any appropriate] local sales or use taxes due on its purchase or use (accompanied by the form or forms approved by the Commissioner of Taxation and Finance and the Commissioner of Motor Vehicles) must be paid. If sales or use tax has not been paid to a vendor registered pursuant to section 533.1 of this Title, then it must be paid to the: [(1)]

(i) clerk of any county performing the functions of registering motor vehicles, snowmobiles, vessels, and all terrain vehicles and accepting applications for [a certificate] certificates of title for motor vehicles and vessels; or [(2) to the]

(ii) Commissioner of Motor Vehicles in all other counties. Proper forms may be obtained from such county clerks or the Commissioner of Motor Vehicles.

(2) If the tax has not been paid to a registered vendor and the motor vehicle, snowmobile, vessel, or all terrain vehicle is not registered or titled, then the purchaser or user must file a [Purchaser's Report of Sales and

Use Tax] report of sales and use tax and pay the tax due in accordance with [subdivisions (a) through (e)] the provisions of this section.

Section 6. Subdivision (g) of section 531.6 of the regulations is amended to read as follows:

(g) In lieu of filing a separate compensating use tax return within the time set forth in subdivision (b) of this section, the Department of Taxation and Finance may require that the State and local compensating use tax imposed on liquors imported into the State, whether under the authority of a distributor's special permit as prescribed in section [323.3] 68.3 of this Title or otherwise, be reported and paid in the same manner and at the same time as the alcoholic beverage taxes imposed upon such liquors.

Section 7. A new subdivision (h) is added to section 531.6 of the regulations to read as follows:

(h) Part R3 of Chapter 62 of the Laws of 2003, as amended by Part V of Chapter 686 of the Laws of 2003, directed the Commissioner of Taxation and Finance to insert new lines in such personal income tax forms and other tax forms as the commissioner deems appropriate to report unpaid sales and compensating use tax. Therefore, notwithstanding any other provision of this Title, unpaid sales and compensating use taxes may be reported and paid to the department as prescribed in such personal income tax forms or other tax forms as the commissioner deems appropriate.

Section 8. Subdivision (e) of section 532.1 of the regulations is amended to read as follows:

(e) "Payment and [returns] report by customer." Where any customer has failed to pay sales tax imposed by article 28 and pursuant to the authority of article 29 of the Tax Law to the person required to collect the tax, such tax shall be payable by the customer directly to the Department of Taxation and Finance, and it shall be the duty of the customer to file a [return] report of sales and use tax with the Department of Taxation and Finance and to pay the tax [within 20 days of the date the tax was required to be paid] as provided in

section 531.6 or 533.3 of this Title. For special rules concerning direct payment permit holders, see section 532.5 of this Part.

Section 9. Paragraph (3) of subdivision (b) of section 533.4 of the regulations is amended to read as follows:

(3) Payment of tax on casual sales. Any person who, although not required to register as a vendor, is otherwise required to collect or pay sales tax on casual sales[,] must pay over to the Department of Taxation and Finance, within 20 days of the date of the sale if the sale occurred in New York State, the amount provided for in paragraph (1) of this subdivision. If [the] a sale to a resident of New York occurred outside New York State, then the tax must be paid over to the Department of Taxation and Finance [within 20 days after the property is brought into New York State] by the New York resident as provided in section 531.6 of this Title.

Section 10. Subdivision (e) of section 537.3 of the regulations is amended to read as follows:

(e) The purchaser may pay any taxes due on the purchase of any tangible personal property directly to the Department of Taxation and Finance [within 20 days after the date of sale] as provided in section 531.6 or 533.3 of this Title.

Andrew S. Eristoff
Commissioner of Taxation and Finance

Dated: Albany, New York
April 25, 2006