



September 2003

The New York State Clothing Exemption

*Statistical Analysis of the Sales Tax
Exemption for Clothing in
New York State*

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Analysis of the New York State Clothing Exemption

Introduction

On March 1, 2000, clothing and footwear items priced under \$110 were exempted from State sales and use tax, with local option.

On March 1, 2000, a sales and use tax exemption for items of clothing and footwear priced under \$110 took effect in New York State. Legislation enacted with the 1997-98 State budget originally provided an exemption for clothing priced at up to \$100 per item, effective December 1, 1999. Subsequent legislation enacted with the 1998-99 State budget included footwear in the exemption and increased the threshold to \$110 per item. Legislation enacted with the 1999-2000 State budget changed the effective date of the exemption from December 1, 1999 to March 1, 2000.¹

Counties and cities imposing sales tax have the option of exempting clothing and footwear priced under \$110 (herein referred to collectively as clothing) from the local portion of the sales tax. Localities may choose to opt in or out of the exemption once per year, on March 1st.² Clothing is exempt from the 0.25 percent Metropolitan Commuter Transportation District (MCTD) sales tax only in localities in the MCTD that have opted in to the exemption for their own locally imposed taxes.³

Prior to adopting the clothing exemption, New York provided seven temporary exemption periods (with local option) for certain items of clothing and footwear. These sales tax holidays were held every January and September from January 1997 to January 2000.⁴

Legislation enacted with the 2003-04 State budget has further amended the clothing exemption.⁵ For the period June 1, 2003 through May 31, 2004, the exemption for clothing and footwear priced under \$110 per item is suspended, except for two specific one-week periods when such clothing is exempt from State sales tax, with local option.

Prior to its enactment, the amount of State sales tax savings associated with the exemption was estimated at \$597 million.

When the clothing exemption was enacted, it was estimated to save taxpayers approximately \$597 million in State sales and use tax in State fiscal year 2000-01. The actual reported savings to taxpayers in State tax was \$589 million.

This report provides data regarding the reported dollar value of clothing sold and the corresponding State and local tax reduction for the March 1, 2000 to February 28, 2001 period. Information concerning clothing sales by industry is also provided. The data are based on schedules filed by sales tax vendors that made sales of the exempt clothing items.⁶

Local Sales Tax Rates on Clothing

Nineteen counties and cities representing approximately one-half of Statewide clothing sales opted in to the exemption.

Many of the localities that opted to exempt clothing from their local sales taxes border adjacent states that either partially or fully exempt clothing.

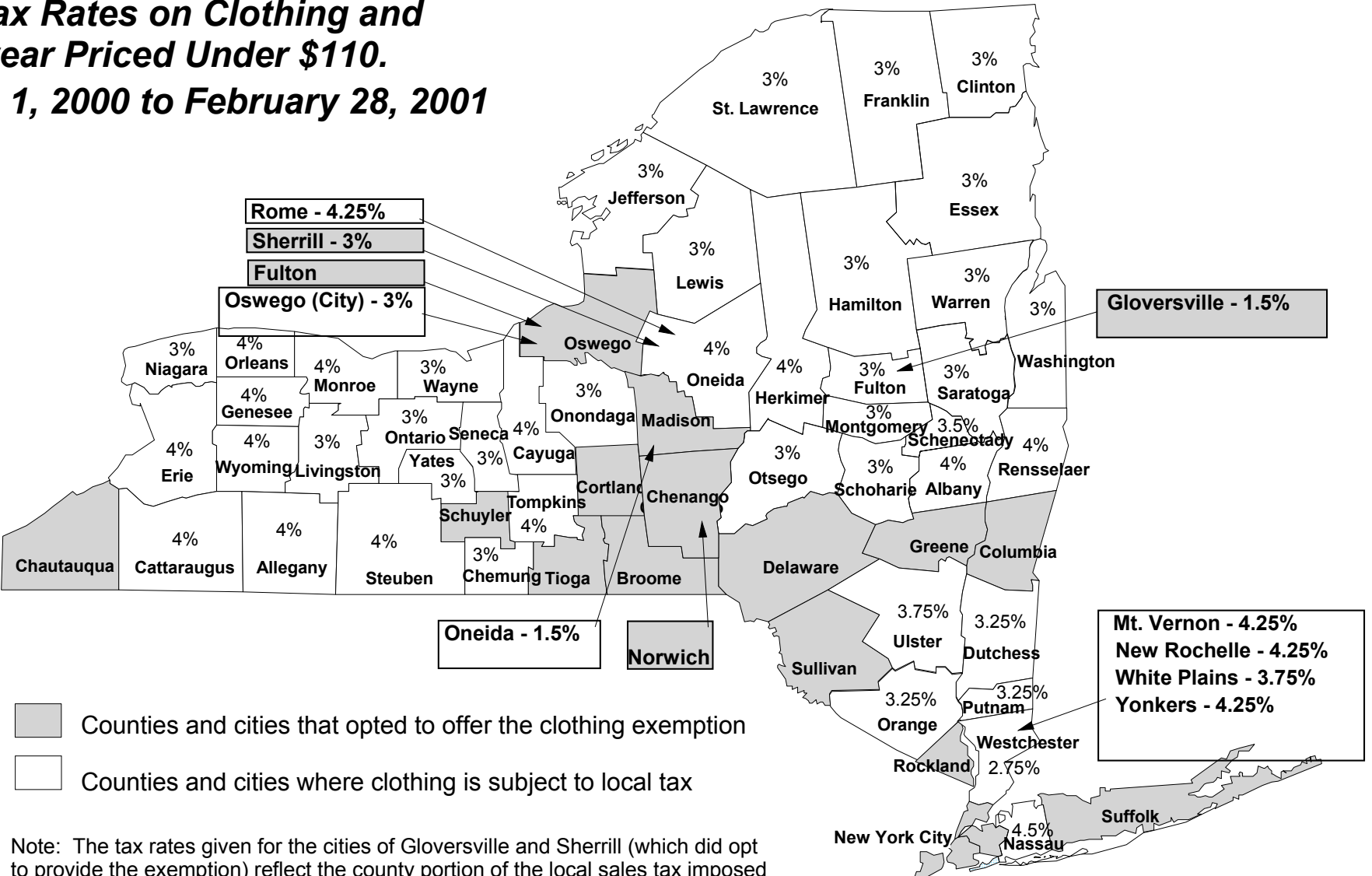
Figure 1 shows local sales tax rates on clothing priced under \$110 for the period from March 1, 2000 to February 28, 2001.⁷ Nineteen localities representing approximately 56 percent of the State's population opted to exempt clothing from their local sales taxes. For the localities that did not choose to exempt clothing from tax, the tax rates remaining on clothing range from 1.5 percent (cities of Gloversville and Oneida) to 4.5 percent (Nassau County)⁸.

For the period examined in this report, no localities in the Mohawk Valley (other than the city of Gloversville), Finger Lakes area or North Country area elected to provide the clothing exemption.

A substantial number of the localities that opted in to the exemption (Chautauqua County, Tioga County, Broome County, Delaware County, Sullivan County, Rockland County, New York City and Columbia County) border neighboring states that either partially or fully exempt clothing. Pennsylvania and New Jersey generally exempt all clothing regardless of price, while Massachusetts and Connecticut limit their exemptions to certain dollar thresholds. In December 1999, an exemption for clothing priced under \$110 took effect in Vermont. Many other localities that opted in to the exemption are within a relatively short distance of these neighboring states. Some observers believe that cross-border tax differentials have enticed New York residents to shop for clothing in such adjacent states. The localities that border these states may have elected to offer the exemption to reduce the incentive for their residents to shop for clothing out-of-State.⁹

It should be noted that fewer localities participated in the clothing exemption than in the earlier temporary exemptions. In the period examined in this report, 19 counties and cities representing approximately 52 percent of Statewide clothing sales and purchases elected to offer the exemption. In contrast, an average of 75 local taxing jurisdictions (representing, on average, approximately 90 percent of reported Statewide sales and purchases of clothing) opted in to each of the seven temporary exemptions.

Figure 1: County and City Sales and Use Tax Rates on Clothing and Footwear Priced Under \$110. March 1, 2000 to February 28, 2001



Note: The tax rates given for the cities of Groversville and Sherrill (which did opt to provide the exemption) reflect the county portion of the local sales tax imposed in these cities. The tax rates shown for the cities of Oswego and Oneida (which did not opt in to the exemption) reflect the city portion of the local sales tax.

Clothing Sales and Purchases During the First Year of the Exemption

More than \$14.7 billion in sales and purchases of clothing were reported in the first year of the exemption.

Table 1 shows the dollar amount of reported sales and purchases of clothing and footwear priced under \$110 in each taxing jurisdiction during the March 1, 2000 to February 28, 2001 period.¹⁰ Figure 2 illustrates the relative shares of clothing sales and purchases by county.

Statewide, more than \$14.7 billion in sales and purchases of clothing were reported. The greatest share was in New York City at \$5.7 billion, or 39 percent of the Statewide total. The counties of Nassau and Suffolk were the only other localities with more than \$1 billion in sales and purchases reported. Overall, the Downstate area accounted for \$10.7 billion in clothing sales and purchases, or 73 percent of the Statewide total.¹¹ The greatest quantities of sales and purchases in Upstate localities imposing sales tax were Erie County at \$729 million (5 percent of the Statewide total) and Monroe County at \$471 million (3 percent of the Statewide total).

Total sales and purchases of clothing in jurisdictions that elected to provide the exemption were \$7.6 billion, or 52 percent of the State total. Thus, non-participating localities accounted for \$7.1 billion (48 percent of the total).

A total of 17,270 different sales tax vendors reported sales and purchases of clothing during the first year of the exemption. New York City had the largest number of vendors reporting clothing sales and purchases, at 6,261 different sellers. The city of Sherrill had the smallest number of vendors reporting sales and purchases, at 36.

**Table 1: Reported Clothing Sales During Exemption by Taxing Jurisdiction
March 1, 2000 - February 28, 2001**

County or Other Locality	Number of Vendors Reporting Clothing Sales**	Total Sales of Clothing Reported	Percentage of Statewide Clothing Sales
Total All Jurisdictions	17,270	\$14,728,825,926	100.00%
Albany	788	412,885,356	2.80%
Allegany	196	9,089,326	0.06%
Broome	397	144,964,085	0.98%
Cattaraugus	235	15,352,038	0.10%
Olean (City only)	124	23,994,982	0.16%
Salamanca (City only)	47	1,124,939	0.01%
Cayuga	205	10,440,090	0.07%
Auburn (City only)	124	18,750,649	0.13%
Chautauqua	315	74,398,255	0.51%
Chemung	309	99,090,690	0.67%
Chenango	183	9,423,180	0.06%
Norwich (City only)	80	4,850,443	0.03%
Clinton	280	52,800,734	0.36%
Columbia	196	14,404,607	0.10%
Cortland	190	33,402,833	0.23%
Delaware	180	7,042,061	0.05%
Dutchess	677	214,424,196	1.46%
Erie	1,355	729,105,614	4.95%
Essex	295	22,424,678	0.15%
Franklin	204	11,528,807	0.08%
Fulton	151	9,770,524	0.07%
Gloversville (City only)*	94	2,859,426	0.02%
Johnstown (City only)	62	4,652,664	0.03%
Genesee	245	23,664,634	0.16%
Greene	186	5,116,650	0.03%
Hamilton	131	1,541,332	0.01%
Herkimer	286	19,583,743	0.13%
Jefferson	382	68,413,873	0.46%
Lewis	148	3,792,976	0.03%
Livingston	264	16,506,728	0.11%
Madison	185	7,190,342	0.05%
Oneida (City only)	86	12,502,884	0.08%
Monroe	1,128	470,711,692	3.20%
Montgomery	220	17,734,556	0.12%
Nassau	1,892	1,824,103,698	12.38%
Niagara	554	152,184,558	1.03%
Oneida	434	105,726,132	0.72%
Rome (City only)	200	20,520,426	0.14%
Sherrill (City only)*	36	451,312	0.00%
Utica (City only)	166	18,765,121	0.13%
Onondaga	972	423,128,896	2.87%

**Table 1: Reported Clothing Sales During Exemption by Taxing Jurisdiction
March 1, 2000 - February 28, 2001 (cont'd)**

County or Other Locality	Number of Vendors Reporting Clothing Sales**	Total Sales of Clothing Reported	Percentage of Statewide Clothing Sales
Ontario	357	168,371,205	1.14%
Canandaigua (City only)	126	4,223,738	0.03%
Geneva (City only)	91	6,614,261	0.04%
Orange	690	436,611,074	2.96%
Orleans	173	8,655,476	0.06%
Oswego	185	10,716,927	0.07%
Fulton (City only)	77	3,929,087	0.03%
Oswego (City only)	141	16,172,409	0.11%
Otsego	307	28,619,377	0.19%
Putnam	226	15,021,083	0.10%
Rensselaer	327	36,665,215	0.25%
Rockland	439	269,555,724	1.83%
St. Lawrence	451	42,329,412	0.29%
Ogdensburg (City only)	65	6,879,211	0.05%
Saratoga	539	120,384,672	0.82%
Schenectady	387	74,495,538	0.51%
Schoharie	159	8,855,152	0.06%
Schuyler	142	10,258,721	0.07%
Seneca	216	63,611,600	0.43%
Steuben	274	14,115,582	0.10%
Hornell (City only)	69	2,891,823	0.02%
Corning (City only)	100	10,570,432	0.07%
Suffolk	1,362	1,237,811,601	8.40%
Sullivan	247	49,161,319	0.33%
Tioga	159	4,696,988	0.03%
Tompkins	246	31,588,442	0.21%
Ithaca (City only)	202	20,944,987	0.14%
Ulster	498	100,312,151	0.68%
Warren	389	89,954,902	0.61%
Glens Falls (City only)	125	3,558,668	0.02%
Washington	214	7,881,536	0.05%
Wayne	281	20,115,583	0.14%
Westchester	927	483,999,253	3.29%
Mount Vernon (City only)	164	16,911,993	0.11%
New Rochelle (City only)	184	16,911,265	0.11%
White Plains (City only)	319	290,849,136	1.97%
Yonkers (City only)	288	186,717,864	1.27%
Wyoming	190	6,183,805	0.04%
Yates	155	3,861,064	0.03%
New York City (MAC)	6,261	5,679,397,920	38.56%

Shaded lines indicate taxing jurisdictions that opted to provide the exemption for their local sales taxes.

* Sales were not fully exempt as a portion of the county local sales tax rate still applied.

** The total number of vendors reporting clothing sales does not equal the sum of the individual taxing jurisdictions because many vendors reported sales in more than one taxing jurisdiction.

Note: Percentages do not sum to 100 percent due to rounding.

Amount of State and Local Tax Reduction

Total reported taxpayer savings in State and local sales tax from the clothing exemption in its first full year was \$906 million.

Taxpayers saved a reported \$589 million in State tax and \$317 million in local tax on clothing.

Data on the amount of the State and local sales and use tax reduction during the first full year of the exemption are provided in Table 2. Figure 3 also illustrates the amount of State and local tax savings by locality.

Total reported taxpayer savings from the clothing exemption during this period was \$906 million. This amount represented a reduction in State tax of \$589 million and local tax of \$317 million. The greatest amount of taxpayer savings was in New York City, where the combined State and local tax reduction was \$469 million. Other localities representing the greatest reported amounts of State and local tax savings include Suffolk County (\$102 million), Nassau County (\$73 million) and Erie County (\$29 million).

The localities in which the greatest amounts of reported savings from the State 4 percent tax occurred were New York City (\$227 million), Nassau County (\$73 million) and Suffolk County (\$50 million).

For the counties and cities opting to provide the exemption from their locally imposed sales tax, the greatest amounts of reported local sales tax savings afforded to taxpayers were \$241 million in New York City, \$53 million in Suffolk County, \$9 million in Rockland County and \$6 million in Broome County. Total local sales tax savings in the 15 other taxing jurisdictions opting in to the exemption was approximately \$8 million.

**Table 2: Amount of State and Local Tax Reduction by Taxing Jurisdiction
March 1, 2000 through February 28, 2001**

County or Other Locality	Reported Reduction in State Sales Tax	Reported Reduction in Local Sales Taxes	Reported Reduction in State & Local Sales Taxes
Total All Jurisdictions	\$589,153,035	\$317,142,093	\$906,295,128
Albany	16,515,414	NA	16,515,414
Allegany	363,573	NA	363,573
Broome	5,798,563	5,798,563	11,597,126
Cattaraugus	614,082	NA	614,082
Olean (City only)	959,799	NA	959,799
Salamanca (City only)	44,998	NA	44,998
Cayuga	417,604	NA	417,604
Auburn (City only)	750,026	NA	750,026
Chautauqua	2,975,930	2,975,930	5,951,860
Chemung	3,963,628	NA	3,963,628
Chenango	376,927	282,695	659,622
Norwich (City only)	194,018	145,513	339,531
Clinton	2,112,029	NA	2,112,029
Columbia	576,184	576,184	1,152,368
Cortland	1,336,113	1,336,113	2,672,226
Delaware	281,682	140,841	422,523
Dutchess	8,576,968	NA	8,576,968
Erie	29,164,225	NA	29,164,225
Essex	896,987	NA	896,987
Franklin	461,152	NA	461,152
Fulton	390,821	NA	390,821
Gloversville (City only)*	114,377	42,891	157,268
Johnstown (City only)	186,107	NA	186,107
Genesee	946,585	NA	946,585
Greene	204,666	204,666	409,332
Hamilton	61,653	NA	61,653
Herkimer	783,350	NA	783,350
Jefferson	2,736,555	NA	2,736,555
Lewis	151,719	NA	151,719
Livingston	660,269	NA	660,269
Madison	287,614	215,710	503,324
Oneida (City only) **	500,115	187,543	687,658
Monroe	18,828,468	NA	18,828,468
Montgomery	709,382	NA	709,382
Nassau	72,964,148	NA	72,964,148
Niagara	6,087,382	NA	6,087,382
Oneida	4,229,045	NA	4,229,045
Rome (City only)	820,817	NA	820,817
Sherrill (City only)*	18,052	4,513	22,565
Utica (City only)	750,605	NA	750,605
Onondaga	16,925,156	NA	16,925,156

**Table 2: Amount of State and Local Tax Reduction by Taxing Jurisdiction
March 1, 2000 through February 28, 2001 (cont'd)**

County or Other Locality	Reported Reduction in State Sales Tax	Reported Reduction in Local Sales Taxes	Reported Reduction in State & Local Sales Taxes
Ontario	6,734,848	NA	6,734,848
Canandaigua (City only)	168,950	NA	168,950
Geneva (City only)	264,570	NA	264,570
Orange	17,464,443	NA	17,464,443
Orleans	346,219	NA	346,219
Oswego	428,677	321,508	750,185
Fulton (City only)	157,163	117,873	275,036
Oswego (City only)	646,896	NA	646,896
Otsego	1,144,775	NA	1,144,775
Putnam	600,843	NA	600,843
Rensselaer	1,466,609	NA	1,466,609
Rockland	10,782,229	8,760,561	19,542,790
St. Lawrence	1,693,176	NA	1,693,176
Ogdensburg (City only)	275,168	NA	275,168
Saratoga	4,815,387	NA	4,815,387
Schenectady	2,979,822	NA	2,979,822
Schoharie	354,206	NA	354,206
Schuyler	410,349	410,349	820,698
Seneca	2,544,464	NA	2,544,464
Steuben	564,623	NA	564,623
Hornell (City only)	115,673	NA	115,673
Corning (City only)	422,817	NA	422,817
Suffolk	49,512,464	52,606,993	102,119,457
Sullivan	1,966,453	1,474,840	3,441,293
Tioga	187,880	164,395	352,275
Tompkins	1,263,538	NA	1,263,538
Ithaca (City only)	837,799	NA	837,799
Ulster	4,012,486	NA	4,012,486
Warren	3,598,196	NA	3,598,196
Glens Falls (City only)	142,347	NA	142,347
Washington	315,261	NA	315,261
Wayne	804,623	NA	804,623
Westchester	19,359,970	NA	19,359,970
Mount Vernon (City only)	676,480	NA	676,480
New Rochelle (City only)	676,451	NA	676,451
White Plains (City only)	11,633,965	NA	11,633,965
Yonkers (City only)	7,468,715	NA	7,468,715
Wyoming	247,352	NA	247,352
Yates	154,443	NA	154,443
New York City (MAC)	227,175,917	241,374,412	468,550,329

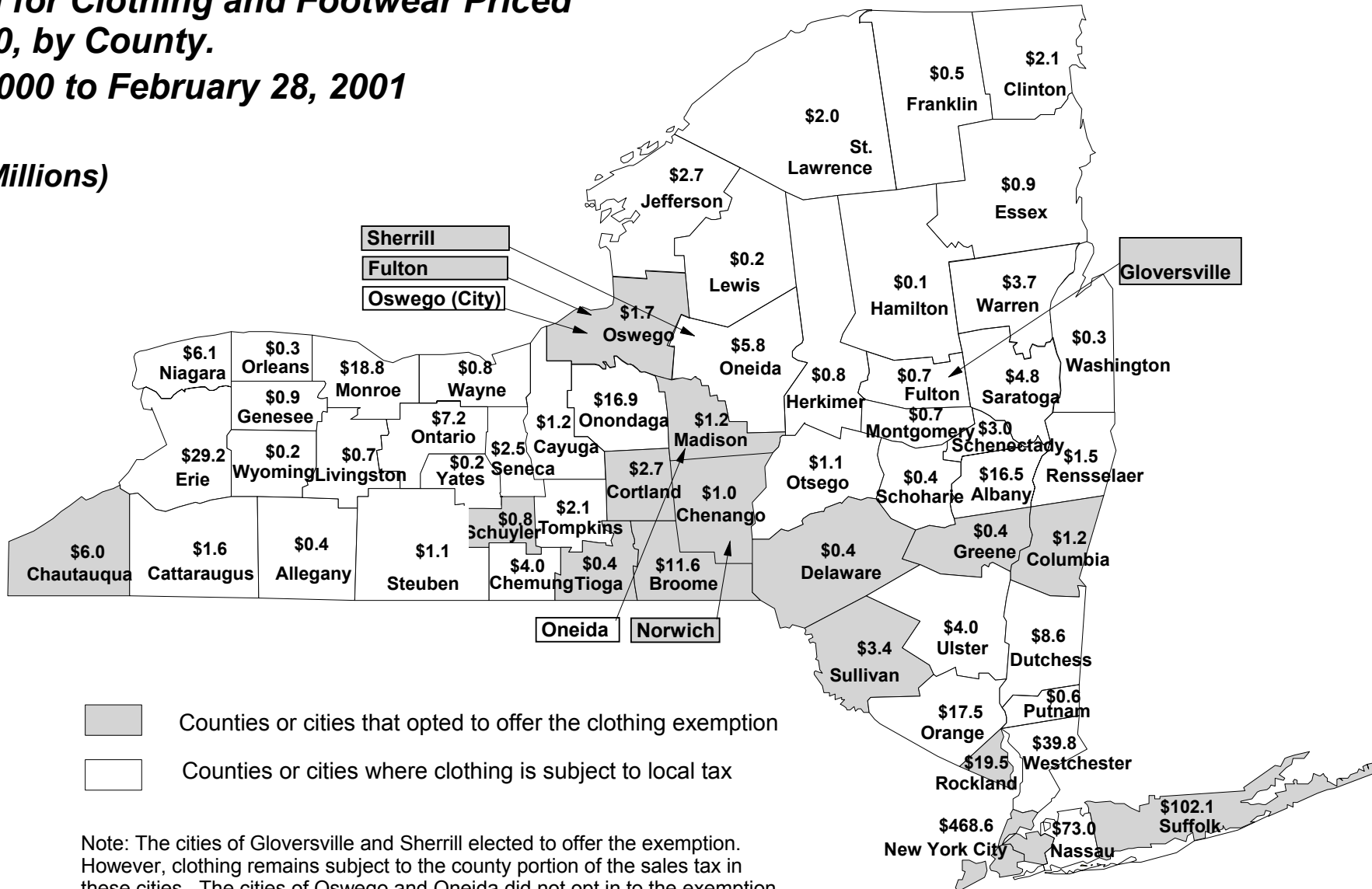
Shaded lines indicate taxing jurisdictions that opted to provide the exemption for their local sales taxes.

* Sales were not fully exempt as a portion of the county rate still applied.

** The reported reduction in local sales tax for the city of Oneida (which did not opt in to the exemption) reflects the exemption from Madison County's 1.5% sales tax imposed in the city of Oneida .

Figure 3: State and Local Tax Savings from Exemption for Clothing and Footwear Priced Under \$110, by County.
March 1, 2000 to February 28, 2001

(Dollars in Millions)



Note: The cities of Gloversville and Sherrill elected to offer the exemption. However, clothing remains subject to the county portion of the sales tax in these cities. The cities of Oswego and Oneida did not opt in to the exemption. Clothing is exempt from the county tax in the city of Oneida.

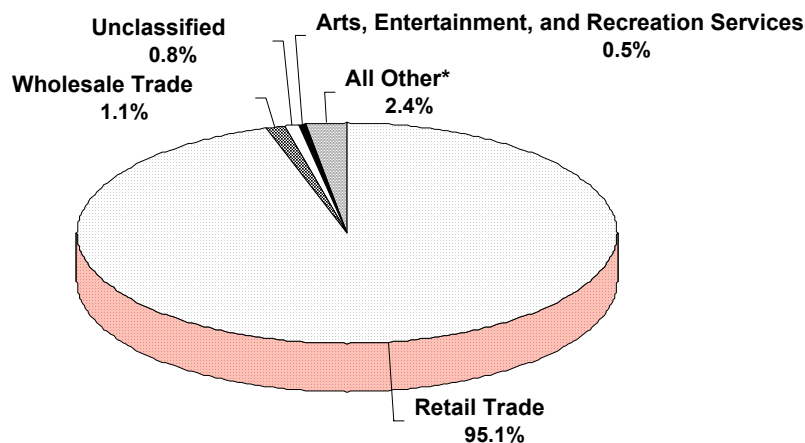
Distribution of Clothing Sales and Purchases by Industry

More than 95 percent of reported clothing sales and purchases were made by the retail trade industry.

Industry shares of reported sales and purchases of clothing and footwear priced under \$110 are illustrated in Figure 4.¹² As expected, the retail trade sector accounted for the vast majority (more than 95 percent) of total clothing sales and purchases. The only other industry reporting more than 1 percent of clothing sales and purchases was wholesale trade (1.1 percent).

As Figure 4 indicates, many industries that are not primarily engaged in making retail sales have reported sales and purchases of clothing. This includes, for example, wholesale trade and many of the industries collectively grouped under “all other.” Although such businesses make some sales of clothing at retail, a relatively large portion of the reported clothing reflects purchases (rather than sales). For the retail trade industry, only 0.2 percent of reported clothing sales and purchases were attributed to purchases. In contrast, for all other industries, nearly 5 percent of reported clothing sales and purchases were attributed to purchases.

Figure 4. Industry Shares of Sales and Purchases of Clothing and Footwear Priced Under \$110
March 1, 2000 to February 28, 2001



* Includes manufacturing, accommodation and food service, health care services, professional services, utilities, information services, administrative services, construction, agriculture, mining, transportation, finance, insurance, real estate and education services.
Note: Totals do not sum to 100% due to rounding

Clothing Sales and Purchases in the Retail Trade Industry

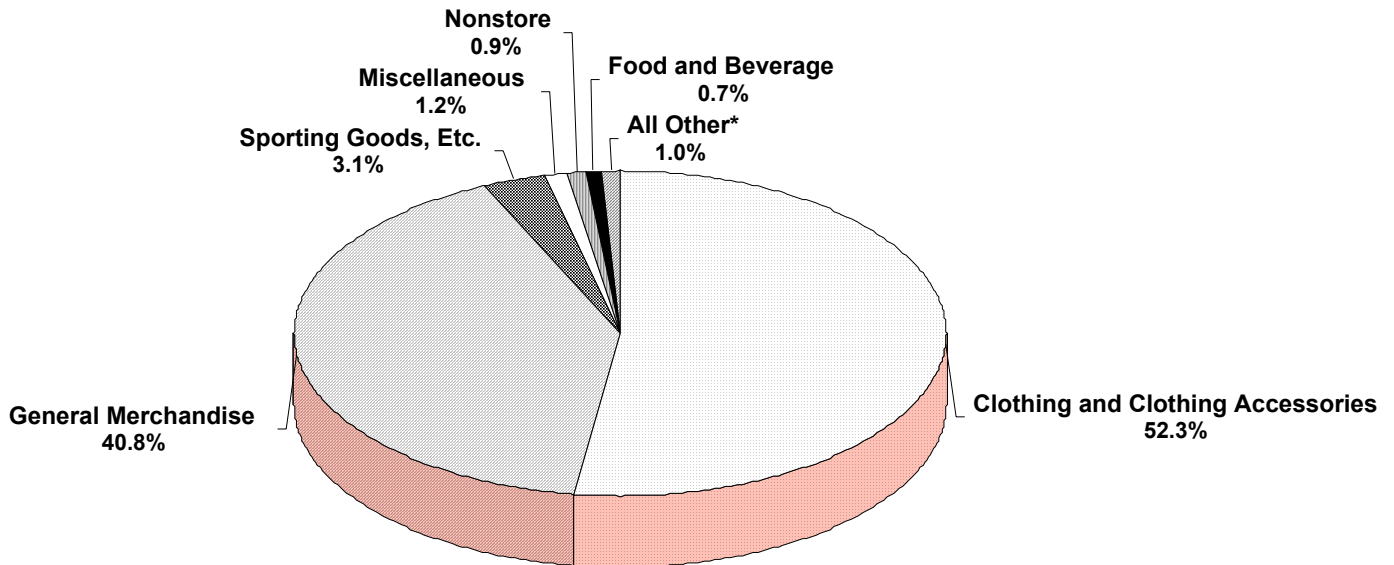
Clothing and clothing accessories stores accounted for more than 52 percent of reported clothing sales and purchases in the retail trade industry.

Figure 5 reports clothing sales and purchases for the components of the retail trade industry. Clothing and clothing accessories and general merchandise stores together account for approximately 93 percent of the retail trade sector's clothing sales and purchases. Sporting goods, hobby, book, and music stores collectively represent 3.1 percent of clothing sales and purchases.

Clothing and clothing accessories stores, which accounted for 52.3 percent of all reported clothing sales and purchases, are defined under the NAICS coding system as stores retailing new clothing and clothing accessories merchandise from fixed point-of-sale locations. This includes sellers of clothing, shoes and jewelry, luggage and leather goods.

General merchandise establishments represented 40.8 percent of reported clothing sales and purchases. The NAICS system defines such stores as those engaged in retailing new general merchandise from fixed point-of-sale locations. This includes, for example, department stores, warehouse clubs and superstores, variety stores and catalog showrooms.

Figure 5. Retail Industry Shares of Sales and Purchases of Clothing and Footwear Priced Under \$110
March 1, 2000 to February 28, 2001



* Includes health and personal care, building materials, motor vehicles and parts, furniture and home furnishings, electronics and appliances, and gasoline stations.

Clothing Sales and Purchases by Clothing and General Merchandise Stores

Clothing and general merchandise stores reported more than \$13 billion in sales and purchases of clothing.

As noted above, clothing and general merchandise stores together reported most clothing sales and purchases. A breakout by taxing jurisdiction of sales and purchases of clothing by clothing stores and general merchandise stores is provided in Table 3. In total, these types of stores reported \$13.1 billion in clothing sales. New York City had the largest share, at approximately \$4.9 billion, or 38 percent of the Statewide total. The counties of Nassau, Suffolk, Erie and Westchester accounted for approximately \$3.9 billion in reported sales and purchases by clothing and general merchandise stores. These counties each represent 13 percent, 9 percent, 5 percent, and 3 percent of the State total, respectively.

**Table 3: Reported Clothing Sales and Purchases During Permanent Exemption
by General Merchandise and Clothing Stores
March 1, 2000 - February 28, 2001**

County or Other Locality	General Merchandise and Clothing Stores	Percentage of Statewide Total
Total All Localities	13,070,142,601	100.00%
Albany	375,736,602	2.87%
Allegany	7,636,034	0.06%
Broome	118,859,723	0.91%
Cattaraugus	13,189,238	0.10%
Olean (City only)	22,116,359	0.17%
Salamanca (City only)	890,842	0.01%
Cayuga	9,361,235	0.07%
Auburn (City only)	16,798,413	0.13%
Chautauqua	55,018,822	0.42%
Chemung	91,644,335	0.70%
Chenango	7,713,916	0.06%
Norwich (City only)	2,904,025	0.02%
Clinton	48,185,136	0.37%
Columbia	10,513,330	0.08%
Cortland	14,962,302	0.11%
Delaware	5,112,202	0.04%
Dutchess	196,062,670	1.50%
Erie	654,356,481	5.01%
Essex	17,351,762	0.13%
Franklin	8,112,603	0.06%
Fulton	8,985,098	0.07%
Gloversville (City only)*	1,863,779	0.01%
Johnstown (City only)	3,924,509	0.03%
Genesee	18,685,982	0.14%
Greene	2,110,472	0.02%
Hamilton	710,805	0.01%
Herkimer	16,593,745	0.13%
Jefferson	62,862,507	0.48%
Lewis	2,689,499	0.02%
Livingston	14,231,345	0.11%
Madison	2,116,470	0.02%
Oneida (City only)	12,114,982	0.09%
Monroe	417,510,577	3.19%
Montgomery	15,624,443	0.12%
Nassau	1,693,798,734	12.96%
Niagara	139,572,960	1.07%
Oneida	97,619,745	0.75%
Rome (City only)	19,179,906	0.15%
Sherrill (City only)*	133,027	0.00%
Utica (City only)	16,359,750	0.13%
Onondaga	380,086,233	2.91%

**Table 3: Reported Clothing Sales and Purchases During Permanent Exemption
by General Merchandise and Clothing Stores (cont'd)
March 1, 2000 - February 28, 2001**

County or Other Locality	General Merchandise and Clothing Stores	Percentage of Statewide Total
Total All Localities	13,070,142,601	100.00%
Ontario	158,869,719	1.22%
Canandaigua (City only)	2,961,743	0.02%
Geneva (City only)	5,663,366	0.04%
Orange	400,345,349	3.06%
Orleans	8,005,839	0.06%
Oswego	5,261,396	0.04%
Fulton (City only)	1,598,878	0.01%
Oswego (City only)	14,580,690	0.11%
Otsego	22,421,029	0.17%
Putnam	11,858,909	0.09%
Rensselaer	31,616,313	0.24%
Rockland	250,569,851	1.92%
St. Lawrence	38,264,144	0.29%
Ogdensburg (City only)	5,129,548	0.04%
Saratoga	103,666,660	0.79%
Schenectady	67,138,329	0.51%
Schoharie	7,877,511	0.06%
Schuyler	9,175,083	0.07%
Seneca	58,326,602	0.45%
Steuben	12,148,339	0.09%
Corning (City only)	1,707,622	0.01%
Hornell (City only)	9,513,610	0.07%
Suffolk	1,138,043,815	8.71%
Sullivan	41,806,966	0.32%
Tioga	1,087,030	0.01%
Tompkins	28,245,973	0.22%
Ithaca (City only)	14,669,978	0.11%
Ulster	90,554,791	0.69%
Warren	80,495,190	0.62%
Glens Falls (City only)	2,315,231	0.02%
Washington	6,219,858	0.05%
Wayne	17,443,611	0.13%
Westchester	438,862,516	3.36%
Mount Vernon (City only)	13,337,810	0.10%
New Rochelle (City only)	6,353,493	0.05%
White Plains (City only)	276,255,330	2.11%
Yonkers (City only)	174,127,212	1.33%
Wyoming	5,320,486	0.04%
Yates	2,931,179	0.02%
New York City (MAC)	4,902,071,004	37.51%

Shaded lines indicate taxing jurisdictions that opted to provide the exemption for their local sales taxes.

* Sales were not fully exempt as a portion of the county rates still applies.

Note: Percentages do not sum to 100 percent due to rounding.

Endnotes

1. This legislation was enacted as, respectively, Chapter 389 of the Laws of 1997, Chapter 56 of the Laws of 1998, and Chapter 407 of the Laws of 1999. For a detailed explanation of the exemption, including a list of taxable and exempt clothing items, see TSB-M-01(02)S in the Appendix of this report. [Return](#)
2. The Tax Law requires localities to mail a copy of the local law, ordinance or resolution providing or repealing the exemption to the Commissioner of Taxation and Finance at least 90 days prior to it becoming effective (i.e., 90 days before March 1). However, the Commissioner has the statutory authority to waive the notification requirement to a period of not less than 30 days. An exception to this rule occurred in 2002 when legislation was enacted allowing the city of Ithaca to opt in to the exemption with less than 30 days notice to the Commissioner. [Return](#)
3. The proceeds from the MCTD 0.25 percent sales tax are deposited in the Mass Transportation Operating Assistance Fund. A reimbursement mechanism holds this fund harmless from revenue losses related to the clothing exemption (Tax Law section 1109(g)). For the period examined in this report, the localities in the MCTD that opted in to the exemption were New York City, Rockland County and Suffolk County. [Return](#)
4. Statistical analysis of the first three temporary exemptions is available in the following OTPA publications: *The Temporary Clothing Exemption*, November 1997; and *The Temporary Clothing Exemptions*, January 1999. Both publications are available from OTPA or on the Internet at http://www.tax.state.ny.us/Statistics/special_interest_reports.htm. [Return](#)
5. See S. 1406-B/A.2106-B and S.4968/A.8388 of 2003. [Return](#)
6. Some vendors making sales or uses of clothing that were fully exempt from tax or subject to the local tax did not file the informational schedule which reports such sales or purchases. However, reporting compliance problems were generally confined to smaller vendors other than clothing and general merchandise stores. As a result, the Department believes that most clothing sales were reported. It is beyond the scope of this report to adjust the data for under-reporting. Thus, the actual sales tax savings to taxpayers resulting from this exemption may be somewhat higher than provided herein. [Return](#)
7. Since the period examined in this report, the list of localities opting to provide the exemption has changed. As of September 1, 2002, the following localities provided the exemption: the counties of Broome, Chautauqua, Chenango, Columbia, Cortland, Delaware, Greene, Jefferson, Madison (outside the city of Oneida), Oswego (outside the cities of Fulton and Oswego), Rensselaer, Rockland, Schuyler, Suffolk, Sullivan, Tioga and Tompkins; and the cities of Ithaca, New York and Norwich. [Return](#)

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8. Although the city of Gloversville (in Fulton County) elected to provide the exemption, Fulton County (which did not provide the exemption) imposes a 1.5 percent sales tax within the city. [Return](#)
 9. An analysis of the effects of cross-border tax differentials may be found in *The Temporary Clothing Exemption*, published by OTPA in November 1997. As noted in that report, the imposition of the compensating use tax should have rendered these cross-border tax differentials meaningless. If all taxpayers were aware of, and complied with, the State's use tax provisions, there would have been no tax benefit to making clothing purchases in bordering states that exempted clothing. Similarly, there would have been no tax advantage to shopping from catalog companies that were not required to collect New York's sales tax. However, it is widely acknowledged among states that collection of use taxes from individual consumers, (i.e., from persons that are not required to register as sales tax vendors) is difficult to enforce. Consequently, compliance with the use tax on out-of-state or mail order purchases of clothing is generally believed to be low. [Return](#)
 10. Purchases refers to the value of clothing purchased for use by a sales tax vendor on which no sales tax was paid. If taxable, such purchases are subject to the compensating use tax (rather than the sales tax). [Return](#)
 11. Downstate is considered the Metropolitan Commuter Transportation District (MCTD), which consists of New York City and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester. [Return](#)
 12. Industry classifications are based on the North American Industry Classification System (NAICS) and follow the classification groupings used in the Office of Tax Policy Analysis' *Taxable Sales and Purchases* reports. [Return](#)

Appendix A: Technical Services Bureau Memorandum 01(02)S - Sales and Use Tax Exemption on Clothing, Footwear, and Items Used to Make or Repair Exempt Clothing

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-M-01(02)S
Sales Tax
February 12, 2001

**Sales and Use Tax Exemption on Clothing, Footwear,
and Items Used to Make or Repair Exempt Clothing**

This memorandum supercedes TSB-M-00(01)S, dated January 24, 2000, regarding the sales and use tax exemption on clothing, footwear, and items used to make or repair exempt clothing. The information in the two memoranda is identical in all respects except for the reference to TSB-M-00(1.1)S, *Sales and Use Tax Clothing and Footwear Exemption Within Counties and Cities*. The rate information provided in TSB-M-00(1.1)S is now contained in Publication 718-C, *Local Sales and Use Tax Rates on Clothing and Footwear*.

Governor George E. Pataki signed into law legislation that provided for a permanent sales and use tax exemption on clothing, footwear, and items used to make or repair exempt clothing, costing less than \$110 per item.

Beginning March 1, 2000, clothing and footwear costing less than \$110 per item is exempt from the 4% New York State sales and compensating use taxes. This exemption does not apply to any locally imposed sales and use taxes unless the county or city imposing those taxes elects to provide for it. See Publication 718-C, *Local Sales and Use Tax Rates on Clothing and Footwear*. Likewise, the exemption does not apply to the ¼% tax imposed by the State in any portion of the Metropolitan Commuter Transportation District (MCTD), unless the county or city in the MCTD provides an exemption from its own tax, in which case the exemption will also apply to the ¼% MCTD tax in that county or city. The MCTD consists of the city of New York and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

The exemption applies only to clothing and footwear worn by humans. It also applies to most fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing, or that are used to make or repair exempt clothing. A vendor's charge for alterations made to exempt clothing that the vendor sells is likewise exempt.

While the exemption applies to items of clothing and footwear worn on the body, not all items worn on the body are clothing and footwear. Jewelry, watches, and like items remain taxable. Equipment items, such as tool belts, hard hats, and sport, bicycle, and motorcycle helmets, though worn on the body, remain taxable. Protective goggles and safety glasses (unless prescription) for sport or occupational use, protective sport or occupational masks or pads, hockey and baseball fielders' gloves or mitts, ice skates and roller skates, fireplace mittens, and similar pieces of equipment (sporting or otherwise) also remain taxable. Antique clothing and footwear are exempt if they are purchased for human wear and not as collector items. All purchases of doll and pet clothes and footwear, antique or otherwise, are taxable.

If exempt clothing or footwear is sold with other taxable merchandise as a single unit, the full price is subject to sales or use tax, unless the price of the clothing or footwear is separately stated. For example, a store has a boxed gift set for sale that has a French-cuff dress shirt, cufflinks and a tie tack. The gift set is sold for a single price of \$50. Although the shirt sold by itself would be exempt, the full price of the boxed gift set would be taxable because the cufflinks and tie tack are taxable and the selling price of the shirt is not separately stated.

The following additional limitations will apply to the exemption.

- The article of clothing or footwear (per pair) must be sold for less than \$110. This "less than \$110" limitation also applies to each item of fabric, thread, yarn, buttons, snaps, hooks, zippers and like items which become a physical component part of exempt clothing or are used to make or repair the exempt clothing. Any charge by the vendor for alterations to clothing sold by the vendor must be included when determining whether the "less than \$110" limitation has been met.
- Costumes and rented formal wear are not eligible for exemption. Nor does the exemption apply to fabric, thread, yarn, buttons, snaps, hooks, zippers and like items which become a physical component part of costumes or rented formal wear, or are used to make or repair costumes or rented formal wear.
- Items of fabric, thread, yarn, buttons, snaps, hooks, zippers and like items used to make or repair otherwise exempt clothing are not eligible for exemption if the item used is made from real or imitation pearls, or from real or imitation precious or semiprecious stones, jewels, or metals.
- Most accessories (such as handbags, umbrellas, watches, and watchbands) are not considered clothing and are taxable. However, belt buckles, handkerchiefs, sweatbands, head scarves, and neckwear such as scarves and ties, are exempt.
- Fabric, thread, yarn, buttons, snaps, hooks, zippers and like items used to make or repair taxable products, are taxable.
- Monogramming of clothing prior to its sale is eligible for exemption if the monogramming is sold in conjunction with the sale of the article. However, if monogramming is done separately by a vendor for a separate charge, the charge for this service is taxable. This limitation also applies to the application of decals, logos and like items (pictures, letters) by sewing, printing, imprinting, silk screening, and the like.

Mail and telephone orders, custom and special orders, and rain checks

Mail and telephone orders, custom and special orders will be taxed at the rate in effect on the date the order is accepted by the vendor. If the order is accepted on or after March 1, 2000, there will be no tax due if the purchase of eligible clothing or footwear (per pair), or items used to make or repair clothing, is less than \$110 per article. Eligible clothing or footwear purchased with a rain check will be taxed at the rate in effect when purchased.

Special Rules That Apply To The Exemption

Delivery, shipping and handling charges (delivery)

Reasonable charges by the vendor for delivery of eligible clothing and footwear are not taken into account in determining if the cost of an item is less than the \$110 limitation. For example, if an article of clothing sells for \$105 and the vendor charges \$10 for delivery, the clothing and the delivery charge qualify for exemption. However, delivery charges by the vendor for items or pairs costing \$110 or more remain subject to tax.

Layaway sales

A layaway sale is a sale in which merchandise is set aside for future delivery to a customer who makes a deposit and agrees to pay the balance of the purchase price over a period of time before the merchandise is delivered. The sales price of the merchandise includes any additional charges a vendor makes for putting the merchandise on layaway. These additional charges must be added to the ticket price of the article of clothing or pair of shoes or other articles of footwear for purposes of determining whether the cost of the item or pair is less than \$110.

Exchanges

Where a customer purchases eligible clothing, footwear, or an item used to make or repair exempt clothing prior to March 1, 2000, and later returns the item and receives a credit or is allowed to purchase another exempt item after the effective date of the exemption, the tax paid on the purchase of the initial item can be refunded or credited. This is because the original sale was canceled. Where a customer purchases eligible clothing, footwear, or an item used to make or repair exempt clothing, on or after March 1, 2000, and later returns the item for an exchange, there will be no tax due as long as the item is exchanged for another exempt item. Where a customer returns the item and receives a credit or is allowed to purchase a different item that is not eligible for the exemption, the applicable sales tax will apply to the sale of the newly-purchased item. For example, if a customer buys a pair of shoes and returns them for credit, with which an umbrella is purchased, tax is due on the full price of the umbrella.

Coupons

Where a customer uses a manufacturer's coupon to pay for an article of clothing or a pair of shoes or other articles of footwear, the value of the coupon does not reduce the selling price for purposes of determining whether the article or pair is sold for less than \$110. Where a customer pays for clothing or footwear using a store coupon, for which the store receives no reimbursement, the store coupon does reduce the selling price of the clothing or footwear for purposes of determining whether the item is sold for less than \$110.

Special reporting requirements for exemption items

Vendors who make sales of exempt clothing, footwear, and items used to make or repair exempt clothing must file ***Schedule H*** to report those sales. *Schedule H* contains lines to report sales of exempt clothing, footwear, and items used to make or repair exempt clothing. All sales of exempt clothing, footwear, and items used to make or repair exempt clothing must be separately reported on *Schedule H* for the locality in which the sales were made. Sales of exempt clothing, footwear, and items used to make or repair exempt clothing must be reported, by locality, whether they are subject to local tax (because a county or city did not elect for the exemption to apply) or are exempt from both state and local taxes.

Beginning March 1, 2000, this schedule must be completed and filed by vendors who have made sales of eligible clothing and footwear during the period covered by the return. *Schedule H* will be supplied to all quarterly and annual filers of Forms ST-100, ST-101, ST-102 and ST-810 with their returns. This schedule should be completed and filed along with your quarterly or annual report.

The pages that follow contain lists of exempt and taxable clothing and footwear items. The lists are intended as a guide and are not all-inclusive. ***Previous lists should not be used for the permanent exemption.***

**Sales and Use Tax Exemption on Clothing, Footwear,
and Items Used to Make or Repair Exempt Clothing
Effective March 1, 2000
Listing of Exempt and Taxable Items**

Exempt Items

Aerobic clothing	Gloves (batting, bicycle, dress [unless rented], garden, golf, ski, tennis, work)	Shoulder pads, for dresses, jackets, etc. (but not athletic or sport protective pads)
Antique clothing (for wear)		
Aprons	Graduation caps and gowns (unless rented)	Shower caps
Arch supports*	Gym suits	Ski masks
Arm warmers	Hand muffs	Sleepwear
Athletic supporters	Handkerchiefs	Slippers
Athletic or sport uniforms or clothing (but not equipment such as mitts, helmets and pads)	Hats	Sneakers
Bandannas	Hosiery (panty hose, peds, etc)	Socks
Bathing caps	Insoles	Sports clothing and uniforms (but not equipment such as mitts, helmets and pads)
Bathing suits	Jeans	Stockings
Beach capes and coats	Jogging suits	Support hosiery
Belt buckles	Lab coats	Suspenders
Belts/suspenders	Leg warmers	Sweat bands
Bibs (baby)	Leotards	Sweat suits
Blouses	Lingerie	Ties/neckwear
Boots (climbing, fishing, riding, ski, waders)	Pajamas	Tights
Bridal gowns and veils (unless rented)	Ponchos	Tuxedo (unless rented)
Caps	Prom dress (unless rented)	Underwear
Coats and wraps	Rain wear	Uniforms (occupational, military, scouting, sport)
Corset laces	Receiving blankets	Wet and dry suits
Coveralls	Religious clothing	Yard goods, and notions**
Diapers (adult - including disposable)*	Rented uniforms (unless formal wear/costume)	
Diapers (children - including disposable)	Riding pants	
Dress shields	Robes	
Dresses	Scarves	
Ear muffs	Scout uniforms	
Formal clothing (unless rented)	Shawls and wraps	
Fur clothing	Shirts	
Garters/garter belts	Shoes (ballet, bicycle, bowling, cleated, football, golf, jazz/dance, soccer, track, etc.)	
Girdles	Shoe inserts	
	Shoe laces	

**Sales and Use Tax Exemption on Clothing, Footwear,
and Items Used to Make or Repair Exempt Clothing
Effective March 1, 2000
Listing of Exempt and Taxable Items**

Taxable Items

Antique clothing (collectable - not for wear)	Jewelry	Shin guards and padding
Barrettes	Key cases	Shoulder pads (football, hockey, etc.)
Bobby pins	Mitts (baseball fielder's glove, hockey, etc.)	Sunglasses (unless prescription)
Costumes	Party costumes	Umbrellas
Crib blankets	Personal flotation devices	Wallets
Elastic ponytail holders	Protective masks (athletic, sport or occupational)	Watch bands
Goggles (unless prescription*)	Roller skates	Watches
Hair bows	Safety glasses (unless prescription*)	Wigs
Hair clips	Sewing accessories (not an integral part of clothing such as chalk, instruction books, knitting needles, measuring tapes, needles, patterns, scissors, pins, thimbles)	Yard goods and notions**
Handbags and purses		
Headbands (Sweatbands are exempt)		
Helmets (sport, motorcycle, bicycle, etc.)		
Ice skates		
In-line skates		

* Items marked with an asterisk are exempt regardless of their price. See Publication 822, *Taxable Status of Medical Equipment and Supplies*. **Do not report these items on Schedule H.**

** Yard goods and notions (fabric, thread, yarn, buttons, snaps, hooks, zippers and like items) used or consumed to make or repair exempt clothing which become a physical component part of the clothing are generally exempt. See page 1 under the heading, ***The following additional limitations will apply to the exemption***, for additional details concerning the taxability of yard goods and notions.

For more information concerning the data provided in this publication, please contact:

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