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## Use Tax for Individuals (including Estates and Trusts)

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### Introduction

New York State and local sales taxes are imposed on taxable property and services purchased by you or delivered to you in New York State. In most instances, when you purchase a taxable item or service in the state, or if it is delivered to you in the state, the seller will collect sales tax from you. The seller then pays the tax over to the Tax Department.

Use tax is a tax imposed on taxable items or services used in New York when the sales tax has not been paid. If a sales tax has not been collected by the seller on a taxable sale, or when taxable items or services are used in New York and the New York sales tax has not been collected, you must report and pay tax directly to the Tax Department. This bulletin discusses the circumstances when a resident of New York State would be required to pay tax on these sales and uses. There is a distinction between *sales tax* that should have been paid and *use tax*. However, for purposes of simplicity, the tax required to be paid is referred to in this bulletin as *use tax*.

The following are common situations in which a New York State resident may owe use tax:

- purchases of taxable property or services made outside of New York State;
- purchases of taxable property or services made over the Internet, from catalogs, or by phone from businesses that are located outside of New York State;
- purchases of taxable property or services on an Indian reservation, except those made in accordance with the [Oneida Indian Nation agreement](#); or
- purchases where the taxable property or services are used in a different local taxing jurisdiction in the state from where they were purchased or where they were delivered.

This bulletin discusses how to calculate the use tax and how to report and pay the use tax.

This bulletin also discusses the rules governing use tax for individuals (and estates and trusts) who are residents of New York, or who may be considered residents for sales and use tax purposes. Generally, for sales tax purposes, an individual resident includes anyone who has a *permanent place of abode* in the state. Examples of a permanent place of abode may include any of the following dwelling places in New York State:

- home, apartment, or room at a residence hall;
- armed forces housing; or
- trailer, mobile home, or houseboat.

For use tax purposes, you can be a resident of more than one locality, more than one state, or both.

An estate or trust that is carrying on a business, trade, profession, or employment in New York State is, for sales and use tax purposes, a resident of the state and of any county or city in which the estate or trust is carrying on these activities.

For more information about the definition of resident for sales tax purposes, see [Form ST-140-I, Instructions for Form ST-140](#).

This bulletin does not address use tax as it applies to business activities. Instead, see Tax Bulletin [Use Tax for Businesses \(TB-ST-910\)](#).

### **Situations in which you owe use tax**

Below are explanations of common situations in which a New York State resident would owe use tax. For purposes of use tax, *taxable property or services* are generally the same items or services that would be subject to New York sales tax if sold in New York State. For more information on sales subject to tax, see Tax Bulletin [Quick Reference Guide for Taxable and Exempt Property and Services \(TB-ST-740\)](#).

#### **Purchases of taxable property or services made outside of New York State**

You are required to pay use tax when you purchase taxable property from a seller who is located outside of New York and you use that property in New York.

**Example:** *You buy furniture in Massachusetts and you bring it to New York State to use it in your home. You owe use tax on the furniture.*

You are required to pay use tax when you take or send property out of New York State to have a taxable service performed on that property, and then bring the property back into New York State for use in the state.

**Example:** *You take your vintage stereo equipment to Connecticut to be repaired. You bring it back to New York to use it in your home after it has been fixed. You owe use tax on the repair service.*

You are required to pay use tax when you purchase taxable services outside New York State and you use those services in New York State. Examples of these services include taxable information services and protective (security) and detective services.

**Example:** *You contract with an out-of-state company to provide you with stock market analysis reports. The sale of this information is a taxable information service. The information is sent to you at home in New York. No New York sales tax was collected. You owe use tax on the amount you paid for the reports.*

#### **Purchases made over the Internet, from catalogs, or by phone from businesses that are located outside of New York State**

You are required to pay use tax when you purchase taxable property or services over the Internet, from catalogs, or by phone without paying New York sales tax, and the seller delivers the property or services to you in New York.

**Example:** *You buy a computer through a retail website from a business that does not collect New York sales tax, and it is delivered to you in New York State. You owe use tax on the cost of the computer, including any charge for shipping and handling.*

**Purchases of taxable property or services on an Indian reservation, except those made in accordance with the [Oneida Indian Nation agreement](#)**

You are required to pay use tax when you purchase taxable property or a taxable service from an Indian reservation without paying New York sales tax, and you bring it or have it delivered to you in New York.

**Example:** *While on an Indian reservation, you purchase a Swiss watch and bring it off the reservation. You owe New York State and local use tax on the cost of the watch.*

**Note:** Indian arts and crafts purchased on an Indian reservation are not taxable property.

### **Purchases where the taxable property or services are used in a different local taxing jurisdiction than where they were purchased or where they were delivered**

Local sales tax rates vary from one jurisdiction to another (for example, city or county) within New York State. The amount of use tax you owe is generally determined by the rates in effect where you live. Therefore, even though New York State and local sales tax may have been collected where you purchased an item, if the local tax was collected at a rate that is lower than the rate at the location where you live and use the item, you will owe the difference in use tax.

**Example:** *You purchase and pay sales tax on merchandise in a locality in New York State with a lower tax rate than the rate where you live and use the merchandise. When you bring the merchandise home, you will owe tax for the **difference** between the rate in the locality of your home and the rate in the locality where you purchased the merchandise.*

**Example:** *As a resident of Albany County, you purchased an item from a business located in Saratoga County where the sales tax rate is 7%. Since the sales tax rate in Albany County is 8%, you owe use tax for the additional 1% on the cost of the item when it is brought home or delivered to you at home.*

However, if the local tax was collected at a rate that is higher than the rate at the location where you use the item or service, you are **not** entitled to a refund of the difference.

Additional tax may also be due when taxable property or services are purchased that are not exempt in your locality but are exempt in the locality where they were purchased.

**Example:** *As a resident of Albany County who buys clothing in Greene County (where it is exempt from local sales tax) you would owe a local use tax on the item when you bring it home to Albany County.*

Use tax is not due on taxable property or services purchased by a user while a nonresident of that locality (that is, items purchased before you moved to, or had a residence in, that locality).

### **Situations in which you do not owe use tax**

Use tax is generally not due on taxable property or services purchased while you were a nonresident of New York State (that is, items purchased before you moved to New York State). There are special rules and exceptions for motor vehicles, vessels, and aircraft; see:

- [TSB-M-09\(4\)S](#), *Amendments Affecting the Application of Sales and Use Tax to Aircraft, Vessels, and Motor Vehicles*;
- [TSB-M-15\(2\)S](#), *Changes to the Application of Sales and Use Tax to Vessels*; and
- [TSB-M-15\(3\)S](#), *Sales and Use Tax Exemptions for General Aviation Aircraft*.

**How to calculate use tax**

Use tax is generally due on the consideration given or contracted to be given for the property or service, or for the use of the property or service, including any charges by the seller to the user for shipping or handling.

*Consideration* is the dollar value of all amounts paid for any property or service. It can include:

- money;
- bartered goods or services;
- assumption of liabilities;
- fees, rentals, royalties;
- charges that a purchaser, lessee, or licensee is required to pay (such as a delivery charge); and
- any other agreement for payment.

**Methods used to calculate use tax**

There are two methods that individuals may use to calculate use tax: the **sales and use tax chart** and the **exact calculation method**.

- For purchases of taxable property or services each costing less than \$1,000 (excluding shipping and handling), you may use either the sales and use tax chart or the exact calculation method.
- For purchases of taxable property or services each costing \$1,000 or more (excluding shipping and handling), you must use the exact calculation method.

**Sales and use tax chart** - The sales and use tax chart is an easy, time-saving method to calculate use tax that is based on your income. However, you may not use it for business-related purchases, royalty activity, or rental real estate activity-related purchases, regardless of the amount. (This sales and use chart also appears on Form [ST-140](#), *Individual Purchaser’s Annual Report of Sales and Use Tax*.)

<b>2020 sales and use tax chart</b>	
Federal AGI	Tax amount
up to \$ 15,000*	\$ 3
\$ 15,001 - \$ 30,000	\$ 6
\$ 30,001 - \$ 50,000	\$ 10
\$ 50,001 - \$ 75,000	\$ 15
\$ 75,001 - \$ 100,000	\$ 20
\$ 100,001 - \$ 150,000	\$ 25
\$ 150,001 - \$ 200,000	\$ 33
\$ 200,001 and greater	.0170% (.000170) of income, or \$ 125, whichever amount is smaller
*This may be any amount up to \$ 15,000, including 0 or a negative amount.	

**Exact calculation method** - Using the exact calculation method requires you to apply a rate of tax to the correct value of a taxable purchase.

The tax rate is determined as follows:

- If taxable property or services are delivered to you in New York State, the tax is computed at the combined state and local rate in effect in the locality where the

delivery occurs, regardless of where you reside. The rate that applies is the rate in effect in that locality at time of delivery.

- However, if the taxable property or services are delivered in one locality of New York State and used in another locality in New York State, you owe use tax to the second locality if you were also a resident of that locality at the time of the purchase and its rate is higher than the rate in effect in the locality where the property was originally delivered to you.
- If you purchased taxable property or services outside New York State and you brought it into New York State to your jurisdiction (locality) of residence, the tax is computed at the combined state and local rate in effect where you reside. The rate that applies is the rate in effect at the time you brought the property or services into that jurisdiction.

For more information about either method, see [Form ST-140](#).

### Six-month rule

There are certain instances in which a New York State resident's use tax is not based on the purchase price of the item or services. If you used the item or services outside of New York for more than six months prior to bringing the item or services into New York, the amount subject to tax is the lesser of the purchase price or the current market value at the time you bring the item or services into New York State.

**Example:** *You are a New York State resident, and you have a camp in Vermont. You buy a lawn mower in Vermont to use at the camp. The following summer you bring the lawn mower into New York State for use at your home. Because the lawn mower was used outside the state for more than six months, you would owe use tax based on the fair market value of the lawn mower at the time you brought it into New York State.*

In these instances, a lower amount of tax may be due. The same six-month rule applies when computing local tax due.

### Credit for sales taxes paid on purchases outside of New York State

You may be eligible for a credit against your New York State use tax for the tax paid to another state or local jurisdiction if you paid state or local sales taxes on your purchase of property or services outside of New York State. To determine whether the tax you paid qualifies for a credit against New York State and local tax, see Tax Bulletin [Reciprocal Credit for Sales or Use Taxes Paid to Other Taxing Jurisdictions \(TB-ST-765\)](#).

Federal excise taxes, customs duties, and taxes and fees you paid in foreign countries are not allowed as a credit against any New York State or local sales or use tax that you owe.

### How to report and pay use tax

Report your use tax in one of the following ways:

- on your income tax return;
- on [Form ST-140](#); or
- on [Form ST-141](#), *Individual Purchaser's Periodic Report of Sales and Use Tax*.

### When to pay

**Income tax returns.** If you are filing [Form IT-201](#), *Resident Income Tax Return*, [Form IT-203](#), *Nonresident and Part-Year Resident Income Tax Return*, or [Form IT-205](#),

*Fiduciary Income Tax Return*, your sales or use tax is due on the due date of your income tax return.

If you request an **automatic extension of time to file** your New York State income tax return, you should pay any sales or use tax due (as well as the income tax you may owe) with your extension request. You can submit your extension request online, by e-file, or by using one of these forms:

- [Form IT-370](#), *Application for Automatic Six-Month Extension of Time to File for Individuals*, or
- [Form IT-370-PF](#), *Application for Automatic Six-Month Extension of Time to File for Partnerships and Fiduciaries*.

You must file your extension application on or before the due date for filing your income tax return (generally April 15 or the first business day after April 15).

**Sales tax forms-** If you are not filing a New York State income tax return, or you elect not to pay your use tax with your income tax return, pay your use tax with:

- [Form ST-140](#)- Use this form to report and pay your use tax for the period covered by your tax year for federal income tax purposes. Form ST-140 is due on the date your federal income tax return is due, without regard to extensions of time to file. If no federal return is required to be filed, Form ST-140 is due when the federal form would have been due if you were required to file it; or
- [Form ST-141](#)- Use this form if you would like to report and pay your use tax on other than an annual basis. Form ST-141 may be filed at any time during the year before the due date of Form ST-140.

### **Special rule for motor vehicles, trailers, or vessels**

The tax on a motor vehicle, trailer, or vessel that must be registered or titled by the New York State Department of Motor Vehicles (DMV) will be collected by DMV when you register it. The tax is computed at the combined state and local rate in effect where you reside unless you are a resident of more than one locality. If you are a resident of more than one locality, the rate is generally based on the rate in effect where the property will be principally used or garaged.

If you will not be registering or titling the motor vehicle, trailer, or vessel at DMV, tax must be remitted directly to the Tax Department using [Form ST-140](#) or [Form ST-141](#).

### **Failure to pay use tax**

Failure to pay tax you owe by the due date may result in the imposition of interest, penalties, or both. To determine the amount of penalty and interest due, use the online [Penalty and Interest Calculator](#).

The Tax Department conducts both routine and special audits to promote and ensure compliance. In addition, the U. S. Customs Service provides the Tax Department with information from customs declarations filed by New York State residents returning from overseas travel. The Tax Department also obtains information on sales to New York State residents under information exchange agreements with other states.

**Note:** A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

**References**

**Tax Law:** Sections 1105, 1110, 1118, 1132, and 1133

**Regulations:** Parts 525 and 531