

**A GUIDE
TO
SALES TAX
IN
NEW YORK
STATE**

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About this publication

This publication is a guide to New York State and local sales and use taxes for businesses that sell taxable tangible personal property, perform taxable services, receive amusement charges, or operate a hotel or motel, and restaurants, taverns, or other establishments that sell food and drink.

It is the department's goal that all taxpayers meet their sales tax obligations and pay the correct amount of tax due. If your business makes sales of property or services that are subject to sales tax, it must register for sales tax purposes and obtain a *Certificate of Authority*. You should thoroughly read all the information contained in this publication so that you become aware of your obligations in regard to sales tax. If you fail to fulfill your obligations under the sales tax law, you could be subject to penalties and/or charged with a crime. Some of these obligations include, but are not limited to:

- registering for sales tax purposes and displaying a *Certificate of Authority* (see page 12, *How to obtain your Certificate of Authority*);
- collecting the proper amount of sales tax from customers (see page 25, *Calculating and stating the sales tax*);
- issuing and accepting properly-completed sales tax exemption certificates (see page 30, *Exemption certificates*);
- maintaining records of sales and purchases in an orderly and adequate manner (see Part III, *Record keeping*);
- filing sales tax returns and remitting any sales tax due in a timely manner as a trustee for the State (see Part IV, *Filing your sales tax return*);
- assuming personal liability for the payment of sales tax by certain responsible persons of a business; and
- providing notice to the department 20 days prior to purchasing or acquiring business assets from a sales tax vendor, other than in the ordinary course of business (see Part VI, *Purchasing or acquiring a business or its assets: Caution*).

[Publication 900](#), *Important Information for Business Owners*, provides additional information on your responsibilities under the sales tax law.

Obligation to register for sales tax purposes

You are required to register for sales tax purposes with the Tax Department if the sales you make are subject to tax. You must be registered to issue or accept most exemption certificates and documents. The information contained in this publication is intended to help you decide whether or not you are required to register for sales tax purposes.

As used in this publication and for purposes of the Tax Department's registration rules, the term *vendor* includes persons required to collect sales tax on sales and transactions described in Part II, *Making sales*. Also, when used in this publication, the terms *sales*, *purchases*, *taxable sales*, and *taxable purchases*, include, but are not limited to, where appropriate, the sale or purchase of the following: tangible personal property, certain services, rentals of hotel and motel rooms, admissions to places of amusement, and dues paid to social or athletic clubs.

Note: See page 19, *Sales by New York and United States governmental entities and certain exempt organizations*, for information relating to sales by governmental entities and certain exempt organizations.

Obligation to collect and remit tax

Once you are registered for sales tax purposes, you are responsible for collecting and remitting both state and local sales taxes to the Tax Department, along with any use tax you may owe. If your business is an entity such as a corporation or a partnership, the responsibility for collecting and remitting sales tax extends to the responsible persons of the business. Therefore, certain owners, officers, directors, employees, partners or members (responsible persons) of a business can be held personally liable for the tax due owed by the business. As trustees for the state, a business and its responsible persons have an obligation to remit any sales tax that is due with timely filed sales tax returns. Failure to collect and remit sales tax can result in the imposition of penalties and interest. (See page 36, *Filing your sales tax return*.)

Record keeping

You must keep detailed records of every sale, the amount paid, charged, or due on the transaction, and the sales tax that is due, if any. Keeping good records of your business operation will help you prepare accurate and complete sales tax returns. (See Part III for more information on *Record keeping* and Tax Bulletin [Record-Keeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#).)

In addition to being required to register for sales tax purposes, you may also be subject to registration, collection, or payment requirements for other taxes. For a more detailed description of these taxes, see [Publication 20](#), *New York State Tax Guide For New Businesses*.

Additional information

The department has recently posted new, plain language tax bulletins to its Web site. These web-based bulletins contain basic, easy-to-understand explanations of single subject sales tax topics. There are currently a number of tax bulletins on our Web site covering a variety of sales tax topics, and new bulletins will continue to be added to the department's Web site on a regular basis.

The department continues to have available many general and industry-specific sales tax publications, as well as technical service memorandums, that provide additional detailed information on various sales tax topics. You can obtain any tax bulletin, publication, memoranda (TSB-M) or document referenced in this publication by visiting the Tax Department's Web site at www.nystax.gov or by contacting us directly. The department's Web site also allows you to receive timely notification of sales tax changes by subscribing to our e-mail subscription service.

If you have any questions about sales and use tax, you may contact us by using the information provided in the *Need help?* section on the back cover of this publication.

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

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Part I – Registration

Who must be registered for sales tax purposes

You must be registered for sales tax purposes with the Tax Department if you will be selling tangible personal property or services on which you are required to collect sales tax

If you will be selling property or services in New York State that are subject to sales tax, you may be required to collect the sales tax from the person to whom you make the sale. (The discussion on page 16 under *Taxable sales* will help you determine whether the sales you make are subject to sales tax.) In general, the sales tax you must collect and remit is computed using the combined state and local rate in effect in the locality where you deliver the taxable product or service to the customer. See pages 25 through 27 of this publication for information on the special rules for the calculation and collection of tax on sales of motor fuels, alternative fuels, motor vehicles, and certain boats. If you must collect sales tax on your sales, then you must register for sales tax purposes with the Tax Department and obtain a *Certificate of Authority* (see page 9 and Tax Bulletin [How to Register for New York State Sales Tax \(TB-ST-360\)](#)).

You must also be registered for sales tax purposes to issue or accept most New York State sales tax exemption certificates

You must also be registered for sales tax purposes to issue or accept most New York State sales tax exemption documents. For example, even though wholesalers may never collect sales tax because all of their purchases and sales are for resale (and, therefore, are eligible for exemption from sales tax), they must still be registered to legally issue and accept most exemption documents.

For additional information on who must be registered for sales tax purposes please see Tax Bulletin [Do I Need to Register for Sales Tax? \(TB-ST-175\)](#).

If you engage in business without obtaining a valid *Certificate of Authority*, you will be subject to a substantial penalty

If you are required to register for sales tax purposes but fail to do so and you engage in business without having obtained a valid *Certificate of Authority*, you will be subject to a penalty. The penalty is up to \$500 for the first day business is conducted without having obtained a valid *Certificate of Authority*, plus up to \$200 per day for each day thereafter. The maximum penalty for engaging in business without obtaining a valid *Certificate of Authority* is \$10,000.

If you are changing your organizational structure, you must register for sales tax purposes as a new business

If you change your organizational structure (for example, from a sole proprietorship to a corporation, a limited liability company, or a partnership), the new organization must register for sales tax purposes and obtain a new *Certificate of Authority*. The new business must obtain its own *Certificate of Authority* before it begins operating. You must also file a final return for your existing business and surrender the *Certificate of Authority* that was issued to the existing business.

**Purchasing,
transferring, or
assigning business
assets**

If you are purchasing, transferring, or assigning either part or all of the assets of an existing business, there are specific rules that apply to the transaction (see Part VI on page 44).

Rules for out-of-state businesses

**Even though you are
located in another
state, if you have
customers in
New York State, you
may be considered a
vendor for
New York State
sales tax purposes**

Even though you are located outside of New York State, if you have customers in New York State, and you have sufficient connection with New York State, you may be required to register for New York State and local sales tax purposes. For example, if you are located outside New York State, make sales of taxable products to persons within New York State, and regularly deliver the products in your trucks to your New York State customers, you have sufficient connection with New York State and must register for sales tax purposes and collect and remit sales tax. Also, if you solicit sales of taxable products or services through employees, salespersons, independent agents, or service representatives located in or who enter New York State, you must register for New York State sales tax purposes.

If the only connection you have with New York State is the delivery of your products into the state by U.S. Postal Service or common carrier, you are not required to register or collect sales tax. Thus, some out-of-state businesses (including some mail order companies) may not have sufficient connection with New York State to be required to collect and remit sales tax.

However, out-of-state sellers that make taxable sales of tangible personal property or services in New York are presumed to be sales tax vendors under certain conditions where they have agreements with New York residents to compensate them for referring potential customers to the seller. Also, under certain conditions, sellers of tangible personal property or services located outside of New York that have an affiliate located in New York may also be required to register to collect and remit sales tax. For more detailed information, see [TSB-M-08\(3\)S](#), *New Presumption Applicable to Definition of Sales Tax Vendor*, [TSB-M-08\(3.1\)S](#), *Additional Information on How Sellers May Rebut the New Presumption Applicable to the Definition of Sales Tax Vendor as Described in TSB-M-08(3)S*, and [TSB-M-09\(3\)S](#), *Definition of a Sales Tax Vendor is Expanded to Include Out-of-State Sellers with Related Businesses in New York State*.

Although, as an out-of-state business, you may not be required to collect sales tax from your customers in New York State, your customers are still responsible for the payment of sales or use tax on their purchases. The use tax complements the sales tax. An example of when use tax applies is when a New York State resident purchases taxable products or services outside of New York State and then brings them or has them brought into New York

State for use here. For more information, see [Publication 774, Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department: Questions and Answers](#).

Although you may not have sufficient connection with New York State to require you to be registered, you may voluntarily register for sales tax purposes to collect and remit the sales tax that is otherwise due from the purchaser. You will then have the same obligations as vendors that are required to register with the Tax Department.

If you are required to register for sales tax purposes, or if you voluntarily register, you must collect sales tax on all taxable sales delivered by you, or for you, to the purchaser, or the purchaser's designee, in this state. The tax due is the combined state and local rate in effect in the locality where the taxable product or service is delivered.

For more information on registration rules for out-of-state businesses, see Tax Bulletin [Do I Need to Register for Sales Tax? \(TB-ST-175\)](#).

About your *Certificate of Authority*

Your *Certificate of Authority* authorizes you to collect sales tax on your taxable sales and to issue and accept certain New York State sales tax exemption certificates

Your *Certificate of Authority* authorizes you to collect sales tax on your taxable sales and to issue and accept certain New York State sales tax exemption certificates. You cannot legally make taxable sales or issue or accept many exemption documents until you have received your *Certificate of Authority*. Exemption certificates are forms that are filled out by a purchaser and given to the seller, so that the seller has a record of why sales tax was not required to be collected on the sale to which the certificate relates.

Once you receive your *Certificate of Authority*, 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, even if you did not have any taxable sales during the reporting period, to avoid being subject to penalties for not filing.

You must prominently display your *Certificate of Authority* at your place of business

You must prominently display your *Certificate of Authority* at your place of business. If you have no permanent physical location, you can attach it to your truck, cart, wagon, stand, or other vehicle or facility from which you conduct business. You are subject to a \$50 penalty if you fail to properly display your *Certificate of Authority*.

If you have more than one place of business, you must display a *Certificate of Authority* at each place of business. You may not use photocopies of a *Certificate of Authority* but may request a separate certificate for each location from the Tax Department. See *How to obtain your Certificate of*

Authority on page 12 for more information on applying for a *Certificate of Authority* when you have multiple business locations.

If you have already received your *Certificate of Authority*, but need a duplicate copy because the original was lost or destroyed, you may contact us and request a duplicate original.

Your *Certificate of Authority* is not transferable

Your *Certificate of Authority* is not transferable or assignable. If you buy an ongoing business, you must apply for your own certificate. (See Part VI on page 44 for additional information on the rules regarding the purchase, transfer, or assignment of a business.) If you sell, transfer, or assign your business or cease doing business, you must surrender your *Certificate of Authority* to the Tax Department.

Although your *Certificate of Authority* is not transferable or assignable, it may be amended to account for changes in the address of the business or business name. If you need to change your sales tax address you can do so by visiting our Web site or by contacting us directly. You can also use [Form DTF-96, Report of Address Change for Business Tax Accounts](#). [Form DTF-95, Business Tax Account Update](#), can be used to provide the Tax Department with information regarding address changes, telephone number changes, and certain changes in business activities. Some changes in business activities may be processed by contacting us directly.

Note: The department has instituted a sales tax vendor re-registration program for all registered vendors. You will receive a notice from the department when you are required to renew your sales tax *Certificate of Authority*. Also, see [TSB-M-08\(9\)S, Summary of the 2008 Sales and Use Tax Budget Legislation](#). For more information about the sales tax *Certificate of Authority* renewal program visit our Web site at www.nystax.gov.

You cease doing business?

If you cease doing business, your *Certificate of Authority* must be returned to the department along with a “final” sales tax return for the business within 20 days of terminating the business. Special rules apply if you Web File a “final” sales tax return. Visit the [Online Services](#) section of our Web site for more information. Also, see Tax Bulletin [Filing a Final Sales Tax Return \(TB-ST-265\)](#).

Types of *Certificates of Authority*

The Tax Department issues two types of *Certificates of Authority* for sales tax purposes

The Tax Department issues two types of *Certificates of Authority* for sales tax purposes:

- regular
- temporary

The type of *Certificate of Authority* you apply for should be based on the anticipated duration of your business activities.

Note: The department will no longer issue the *Certificate of Authority for Show and Entertainment Vendors*. If you make sales at shows or entertainment events, such as flea markets, craft shows, antique shows, fairs, and similar shows you should apply for a regular *Certificate of Authority*.

See [TSB-M-08\(13\)S](#), *Changes Regarding the Issuance of Certificates of Authority to Show and Entertainment Vendors*, for more information.

Regular Certificate of Authority

You should apply for a regular *Certificate of Authority* if you will be making ongoing taxable sales from your home, a shop, a store, a cart, a stand, or any other facility or facilities from which you regularly conduct your business. It does not matter whether you own or rent the facility.

You must apply for a regular Certificate of Authority at least 20 days before you begin operating your business in New York State. (See *How to obtain your Certificate of Authority* on page 12.)

Temporary Certificate of Authority

You may apply for a temporary *Certificate of Authority* if you expect to make taxable sales in New York State for no more than two consecutive quarterly sales tax periods in any 12-month period. In determining whether you meet this requirement, keep in mind that the sales tax quarters are: March 1 through May 31, June 1 through August 31, September 1 through November 30, and December 1 through February 28 (February 29 in a leap year).

Show and entertainment vendors may not apply for a temporary *Certificate of Authority*; they must apply for a regular *Certificate of Authority*.

However, even if you are eligible to obtain a temporary *Certificate of Authority*, it may be to your benefit to apply for a regular *Certificate of Authority*. That is because a temporary *Certificate of Authority* is good only for the two consecutive quarterly sales tax periods listed on your application and on your temporary *Certificate of Authority*. In addition, if you operate the same business or another business during the next 12-month period, you must again apply for a new temporary *Certificate of Authority* at least 20 days before you resume doing business.

Example: You sell Christmas trees in November and December, and your taxable sales consist only of sales during this period. Accordingly, you are eligible to apply for a temporary Certificate of Authority. However, if you intend to conduct this type of business activity every year, you may wish to apply for a regular Certificate of Authority. This could be to your benefit because you would not have to apply every year for a new temporary Certificate of Authority, as the regular

Certificate of Authority would continue to be in effect until you indicate that you are no longer doing business by filing a final return. However, once you receive a regular Certificate of Authority you must file sales and use tax returns even if you have no sales tax liability. Also, even if you file a final return, and subsequently change your plans, you may apply for reactivation of your regular Certificate of Authority simply by contacting us directly (as long as it is within one year of deactivation).

Example: You have no consistent year-to-year sales activity in New York State. However, in 2007 you intend to sell costume jewelry from a kiosk in the common area of a mall from October through December. This will be your only business activity in New York State in 2007 and you do not intend to sell in New York State in 2008. You should apply for a temporary Certificate of Authority.

Example: You intend to sell crafts at a farmers' market for seven months, from the beginning of April through the end of October. This seven-month period covers three consecutive quarterly sales tax periods: March through May, June through August, and September through November. You may not apply for a temporary Certificate of Authority. You must apply for a regular Certificate of Authority.

If you qualify to apply for a temporary *Certificate of Authority*, you must apply for it at least 20 days before you begin operating your business. (See below, *How to obtain your Certificate of Authority*.)

How to obtain your *Certificate of Authority*

You must apply for a *Certificate of Authority* at least 20 days before you begin business

You must apply for a *Certificate of Authority* at least 20 days before you begin operating your business. You may apply online, by visiting the *Online Permit Assistance and Licensing (OPAL) Web site* at www.nys-opal.com/. Applying online is the fastest and easiest way to obtain your certificate.

You may also apply by filling out [Form DTF-17, Application to Register for a Sales Tax Certificate of Authority](#), and sending it to the address listed in the instructions for that form, at least 20 days before you begin operating your business. If you need to file the paper version of the application, you may obtain a copy of the form from the Tax Department's Web site or by contacting us. See, the *Need help?* section on the back cover of this publication.

Upon receipt of your online or paper application, the Tax Department will review your application. If your application is approved, we will mail you a *Certificate of Authority*. You cannot legally make taxable sales or issue or accept most exemption certificates until you have received your *Certificate of Authority*. If you listed several places of business on your online

application or [Form DTF-17-ATT](#), *Schedule of Business Locations For a Consolidated Filer*, the Tax Department will provide you with a separate *Certificate of Authority* for each location.

Denial of a Certificate of Authority

The Tax Department may deny your request for a *Certificate of Authority*

The Tax Department may deny your request for a *Certificate of Authority* under certain circumstances. For example, if any tax imposed under the Tax Law has been finally determined to be due from you and that tax liability has not been paid, your application for a *Certificate of Authority* may be denied. Remember that you cannot legally make taxable sales or issue or accept most New York State exemption certificates until you receive a *Certificate of Authority*. See page 7 for information regarding the penalties imposed for engaging in business without first receiving a *Certificate of Authority*.

Within 30 days of receiving notice that your application for a *Certificate of Authority* has been denied, you may file either a request for a conference, or a petition for a hearing

If your timely and complete application for a *Certificate of Authority* is denied, we will send you a *Notice of Proposed Refusal to Register* by certified mail within five days of the date we receive your application. The *Notice of Proposed Refusal to Register* will state the basis for the proposed refusal. If you believe that the Tax Department has made a mistake, you should file a request for a conference with the Bureau of Conciliation and Mediation Services, or file a petition for a hearing with the Division of Tax Appeals. You must file the application for a conference or hearing within 30 days of receipt of the *Notice of Proposed Refusal to Register*; otherwise the *Notice of Proposed Refusal to Register* becomes final. Once the *Notice of Proposed Refusal to Register* becomes final, you are prohibited from engaging in any business in New York State for which a *Certificate of Authority* is required.

Taxpayers' Bill of Rights

The *Taxpayers' Bill of Rights* requires the Tax Department to advise you, in writing, of your rights to appeal a departmental decision

New York State has a *Taxpayers' Bill of Rights* that enhances and formalizes your rights as a New York State taxpayer. In part, the Bill of Rights requires the Tax Department to advise you, in writing, of your rights to appeal a departmental decision. For more information on your rights, see [Publication 38](#), *Your Rights as a Taxpayer*, or contact us.

New Jersey sales tax agreement

Simplified sales tax reporting program between New York State and the State of New Jersey

A simplified sales tax reporting program is part of an agreement entered into between New York State and the State of New Jersey.

Under the simplified tax reporting program, New York State vendors who have no business location in New Jersey, but who make taxable sales of tangible personal property or services that are delivered to persons in New Jersey, may collect the New Jersey sales tax due on those sales. The simplified tax reporting program also allows New Jersey vendors who have no business location in New York, but who make taxable sales of tangible personal property or services that are delivered to persons in New York, to collect New York State sales tax due on those sales. The agreement between the states also permits the states to actively exchange sales and use tax information.

Registering for the program

Vendors who participate in the program register with both their home state, and the state for which they wish to collect sales tax. The vendor files a single sales tax return with the home state, along with a combined payment of all sales taxes collected and a breakdown of how much tax was collected on behalf of each state. The home state will, on the vendor's behalf, send the taxes due the other state to the other state. For more information on registering for the New Jersey program, see [Publication 32](#), *New Jersey/New York Cooperative Interstate Sales and Use Tax Administration*, (New Jersey).

Note: The reciprocal sales tax agreement between the State of Connecticut and the State of New York has been terminated. However, the exchange of sales and use tax information remains in effect. For more detailed information relating to the changes as a result of the termination, see Important Notice, [N-09-16](#), *Important Information for Participants in the Connecticut/New York State Simplified Sales and Use Tax Reporting Program*.

Registration rules for farmers

Farmers are not required to register for sales tax purposes unless they make sales that are subject to sales tax

A farmer is not required to register for sales tax purposes if the only sales the farmer makes are sales of food and food products that are exempt from tax. For example, if a farmer sells fruits, vegetables, baked goods, jellies, jams, and preserves at a roadside stand, the farmer will not be required to register. In addition, [Form ST-125](#), *Farmer's and Commercial Horse Boarding Operator's Exemption Certificate*, can be issued by farmers to make purchases exempt from the payment of sales tax when purchasing certain goods and services used predominantly (more than 50%) in farm production, even though the farmer is not registered for sales tax purposes.

However, if a farmer sells taxable tangible personal property such as hay, livestock, plants, shrubs, trees, homemade crafts, or items such as candy and other confections, or sells food or drink for consumption on the premises where sold, then the farmer must register for sales tax purposes and collect sales tax on sales of taxable tangible personal property and services, or taxable food and drink.

Registration rules for contractors

A contractor is not required to register for sales tax purposes if the contractor only contracts or subcontracts to do capital improvements. See [Publication 862](#), *Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property*, for more information on the application of the sales tax law to contractors and the definition of capital improvement.

Contractors must register for sales tax purposes if the sales they make are subject to tax or to issue certain exemption documents

A contractor is required to be registered for sales tax purposes if the contractor will make sales that are subject to sales tax. For example, if a construction contractor makes repairs such as repairing a roof or a leaking pipe, the contractor must register for sales tax purposes.

A contractor must also register for sales tax purposes if the contractor will be issuing an exemption document to make certain specific purchases exempt from sales tax (such as a purchase of tangible personal property that is installed into real property owned by an exempt organization).

Registration rules for manufacturers

As used in this section, the term *manufacturer* means and includes manufacturers, processors, generators, assemblers, refiners, miners, and extractors.

Manufacturers must register for sales tax purposes if the sales they make are subject to tax or to issue or accept most exemption documents

A manufacturer may purchase raw materials and certain machinery, equipment, parts, tools, supplies and related services exempt from sales tax. In order to make these purchases exempt from sales tax and issue the appropriate exemption documents, a manufacturer is required to be registered for sales tax purposes.

Moreover, a manufacturer must also register for sales tax purposes to accept a resale certificate from its customer. See [Publication 852](#), *Sales Tax Information for Manufacturers, Processors, Generators, Assemblers, Refiners, Miners and Extractors, and Other Producers of Goods and Merchandise*, for more information.

Part II – Making sales

Taxable sales

The following products and services are subject to sales tax when delivered in New York State, unless specifically exempted or excluded. This list is intended to provide general guidelines of the types of sales that are subject to tax and is not an all-inclusive list. If your business will be making sales of any of these types of products or services, you are required to register for sales tax purposes and obtain a valid *Certificate of Authority* prior to doing business in New York State.

For further information regarding products and services subject to sales tax, see Tax Bulletin [Quick Reference Guide for Taxable and Exempt Property and Services \(TB-ST-740\)](#).

Items and services subject to tax

Generally, the sales tax is imposed on:

- retail sales of tangible personal property; unless specifically exempted in the law;
- sales of certain services (see page 18);
- sales of gas, electricity, refrigeration, and steam (utilities);
- sales of gas, electric, refrigeration and steam service (utilities);
- sales of telephony and telegraphy;
- sales of telephone and telegraph service (including telephone answering services, facsimile transmission services, and mobile telecommunications services);
- sales of food and drink for on-premises consumption, for example, when sold by restaurants and taverns;
- sales of food and drink when sold by caterers;
- sales of sandwiches and heated food;
- rent for occupancy of hotel or motel rooms (including bed and breakfasts, boarding houses, guest houses, etc.). For more information see [Publication 848, A Guide To Sales Tax For Hotel And Motel Operators](#);

- admission charges to places of amusement, other than live dramatic or musical arts performances, motion picture theaters, sporting facilities or activities in which the patron is the participant, live circus performances, or charges which are taxed under any other law of this state, such as for admissions to race tracks, boxing, sparring or wrestling matches or exhibitions; **Note:** 75% of admission charges to qualifying places of amusement are exempted from the imposition of sales tax. (See [TSB-M-06\(12\)S](#), *Summary of the 2006 Budget Legislation Relating to Sales Taxes*, and [TSB-M-04\(7\)S](#), *Exemption from Sales Taxes on 75% of the Admission Charge to a Qualifying Place of Amusement*.)
- dues, including initiation or membership fees, paid to social or athletic clubs when the combined dues and fees are more than \$10 per year; and,
- the charges of a roof garden, cabaret, or other similar place.
Note: When certain conditions are met, a portion of the charges made by a roof garden, cabaret, or other similar place for admission to see a dramatic or musical arts performance is exempt from sales tax. (See [TSB-M-06\(15\)S](#), *Supplemental Summary of Recently Enacted Legislation Affecting Sales and Use Taxes Effective in 2006*.)

For sales tax purposes, the term *sale* includes a sale, a lease, rental, exchange or barter, and license to use or consume. For computer software, the term *sale* also includes the right to reproduce the software.

Sales of tangible personal property

The term *tangible personal property* means physical personal property, of any nature, that has a material existence and is perceptible to the human senses. Tangible personal property includes a variety of goods. Examples of taxable sales of tangible personal property include, but are not limited to, sales of:

- furniture, appliances, and lighting fixtures;
- certain clothing and footwear;*
- machinery and equipment, parts, tools, and supplies;
- computers;
- prewritten (canned/off-the-shelf/standard) computer software (whether transferred by CD-ROM, Internet download, remote access, etc.);
- motor vehicles;
- boats and yachts;

- fuels (for example, gasoline, diesel fuel, and kero-jet fuel);
- candy and confections;
- bottled water;
- soda and beer;
- cigarettes and tobacco products;
- cosmetics and toiletries;
- jewelry;
- artistic items such as sketches, paintings, and photographs;
- animals (for example, dogs, cats, or pet birds);
- food and supplies for animals;
- trees, shrubs, plants, and seeds;
- coins and other monetary items, when purchased for purposes other than for use as a medium of exchange;
- building materials; and
- prepaid telephone calling cards.

* If you sell clothing or footwear, [Publication 718-C](#), *Local Sales and Use Tax Rates on Clothing and Footwear*, lists the most up-to-date information concerning the applicable tax rates to charge your customers.

Services subject to tax

Only certain services are subject to tax. These services include:

- providing certain information services;
- producing, fabricating, processing, printing or imprinting tangible personal property furnished by a customer who does not intend to resell it (for example, when an individual purchases lumber and has a cabinetmaker construct a bookcase for him or her);
- installing, maintaining, servicing, or repairing tangible personal property that is not held for sale by the purchaser of the service in the regular course of business (for example, servicing automobiles, repairing appliances, and repairing radio and television sets);

- storing tangible personal property that is not being held for sale (for example, storing a customer's fur coat or providing storage for a customer's household goods);
- renting safe deposit boxes;
- maintaining, servicing, or repairing real property, both inside and outside buildings (for example, cleaning, painting, gardening, snowplowing, trash removal, and general repairs);
- providing parking, garaging, or storage services for motor vehicles;*
- interior decorating and design services;
- protective or detective services;
- entertainment or information services provided by means of telephone or telegraph (for example, 800 or 900 numbers); and
- passenger transportation services with a driver, using limousines, black cars, and certain other motor vehicles (not including taxi and bus services). (See [TSB-M-09\(2\)S](#), *Sales Tax Imposed on Certain Transportation Services*, and [TSB-M-09\(7\)S](#), *Additional Guidance Relating to Sales Tax on Certain Transportation Services*.)

* See [TSB-M-08\(14\)S](#), *Sales Tax Treatment of a Lease or Rental of Real Property for the Purpose of Parking, Garaging, or Storage of Motor Vehicles*, for information on what constitutes a non-taxable lease of real property for parking.

Sales by New York and United States governmental entities and certain exempt organizations

The Tax Law provides a general exemption from sales tax for sales made by the following:

- New York State or any of its agencies, instrumentalities, public corporations, or political subdivisions (New York governmental entity);
- the United States and its agencies and instrumentalities (United States governmental entity);
- the United Nations or any international organization of which the United States is a member (United Nations or any international organization);
- certain not-for-profit organizations, (such as religious, charitable, scientific, testing for public safety, literary or educational, or to foster national or international sports competition);

- certain posts or organizations consisting of past or present members of the armed forces of the United States, and qualifying auxiliary units of such posts or organizations; and
- certain Indian nations or tribes residing in New York.

However, there are some exceptions to this general rule for sales made by governmental entities and other exempt organizations. The sales described below, when made in the manner indicated by either a governmental entity or other exempt organization, are subject to sales and use taxes. This list is intended to provide general guidance and is not meant to be an all-inclusive list. If an exempt organization or governmental entity engages in sales of these types of products or services, it is required to register for sales tax purposes and obtain a valid *Certificate of Authority* prior to conducting business in New York State (see page 12).

Generally, sales and use taxes are imposed on:

- tangible personal property or services sold by New York or United States governmental entities and certain sales by the United Nations or any international organization, if the property or services are similar to those ordinarily sold by private persons;
- tangible personal property sold by any *shop or store** operated by certain not-for-profit organizations; posts or organizations of past or present members of the armed forces, and qualifying auxiliary units; or certain Indian nations or tribes residing in New York;
- tangible personal property or services sold by a rural electric cooperative corporation, unless the purchaser is an exempt organization;
- food or drink sold in or by a restaurant or tavern operated by a New York governmental entity; certain not-for-profit organizations; posts or organizations of past or present members of the armed forces and qualifying auxiliary units; or certain Indian nations or tribes residing in New York;
- under certain circumstances, rent for hotel occupancy received by certain not-for-profit organizations (see [Publication 848](#), *A Guide To Sales Tax For Hotel And Motel Operators*); and
- certain motor vehicle parking, garaging, or storage services by certain not-for-profit organizations and posts or organizations of past or present members of the armed forces, and qualifying auxiliary units.

* A *shop or store* is any place or establishment where goods are sold from display with a degree of regularity, frequency, and continuity as well as any

place where sales are made through a temporary shop or store located on the same premises as persons required to collect tax.

Beginning September 1, 2008, certain not-for-profit organizations; certain posts or organizations of past or present members of the armed forces, and qualifying auxiliary units; and certain Indian nations or tribes residing in New York, are required to collect state and local sales tax on their retail sales of the following property and on their sales, other than for resale, of the following services:

- any lease or rental of tangible personal property;
- any utility service described in section 1105(b) of the Tax Law;
- any service to real property described in section 1105(c)(5) of the Tax Law; and
- any tangible personal property where the sale is made by remote means, such as by telephone, mail order (including email), over the Internet, or by other similar methods, provided the exempt organization makes such sales with a degree of regularity, frequency, or continuity.

Beginning January 1, 2009, certain not-for-profit organizations; posts or organizations of past or present members of the armed forces, and qualifying auxiliary units; and certain Indian nations or tribes residing in New York are also required to collect state and local sales and use tax on certain remote and auction sales.

The sales described above are subject to tax whether or not they are made from a shop or store. For more information on sales by certain exempt organizations, see [Publication 843](#), *A Guide to Sales Tax in New York State for Exempt Organizations*. Also see [TSB-M-08\(5\)S](#), *Tax Law Amendments Related to Sales Made by Certain Sales Tax Exempt Organizations Effective September 1, 2008*, and [TSB-M-08\(15\)S](#), *Regulatory Amendments Related to Sales Made by Certain Sales Tax Exempt Organizations – Effective January 1, 2009*.

For information on purchases made by governmental entities and certain exempt organizations, see *Exempt purchasers* on page 31.

Additional sales taxes and fees you may be required to collect

Passenger car rentals

An additional 6% statewide special tax is imposed on the short-term rental of a passenger car rented within New York State, or rented outside New York State for use within New York State. *Short term rental* means

any rental for less than one year. This tax is in addition to the applicable state and local sales and use taxes.

Also, a special 5% supplemental tax is imposed on the short-term rental of passenger cars within the Metropolitan Commuter Transportation District (MCTD).^{*} The special supplemental tax is in addition to the applicable state and local sales and use taxes and the statewide special tax.

See [TSB-M-09\(1\)S](#), *Increase in the Special Tax on the Rental of Passenger Cars*, and [TSB-M-09\(6\)S](#), *Special Supplemental Tax on the Rental of Passenger Cars Within the Metropolitan Commuter Transportation District*, for more information.

^{*} The MCTD consists of New York City (Bronx, Kings, New York, Queens, and Richmond counties) and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

Entertainment or information services

An additional 5% sales tax is imposed on entertainment or information services provided by means of telephone that are received in an exclusively aural manner by the customer (for example, 800 or 900 numbers).

Parking services sold in New York City

Charges for parking services in New York City are subject to a higher rate of tax than most other sales. If you sell parking services in the borough of Manhattan (New York County), those sales are subject to the 8% additional parking tax imposed on parking services within that borough. Under certain circumstances, an individual resident of Manhattan is exempt from this 8% tax. See [TSB-M-85\(14\)S](#), *1985 Legislation - Chapter 330 Exemption From New York City Additional Tax On Parking, Garaging and Storing of Motor Vehicles*, and [TSB-M-96\(13\)S](#), *Change in the New York City Parking Tax Exemption for Manhattan Residents*, for more information about the exemption afforded Manhattan residents.

Fee on hotel occupancy in New York City

An additional hotel unit fee in the amount of \$1.50 per unit, per day, is imposed on every occupancy of a unit in a hotel located within New York City (Bronx, Kings, New York, Queens, and Richmond counties). See [TSB-M-05\(2\)S](#), *Fee on Hotel Occupancy in New York City*, for additional information on this hotel unit fee.

Sales taxes imposed only within New York City

Sales tax is imposed on certain services that are performed or delivered within New York City

New York City local sales tax is imposed only within New York City on the following services performed or delivered in the city:

- written or oral credit rating services;
- oral credit reporting services not delivered by telephone;

- beautician, barbering, and hair restoring services;
- tanning services;
- manicure and pedicure services;
- electrolysis;
- massage services; and
- the sale of the services of transporting, transmitting, distributing, or delivering gas or electricity, when purchased from someone other than the vendor of the gas or electricity. (See Important Notice, [N-09-12](#), *Sales Tax Law Changes in New York City – Effective August 1, 2009*.)

In addition, the New York City local sales tax is imposed on every sale of services by:

- weight control and health salons;
- gymnasiums;
- Turkish and sauna baths and similar establishments; and
- every charge for the use of such facilities.

Sales of these services are subject to sales tax only when the services are performed or delivered to customers within New York City.

However, charges for services rendered by the following are not subject to the local New York City sales tax:

- physicians;
- osteopaths;
- dentists;
- nurses;
- physiotherapists;
- chiropractors;
- podiatrists;
- optometrists; and

- ophthalmic dispensers; or
- a person performing similar services licensed under title VIII of the New York State Education Law, and excluding those services when performed on pets and other animals.

Note: The services described above are not subject to New York State sales tax, including the MCTD tax, or to any local sales taxes imposed elsewhere in the state. However, those credit rating and credit reporting services that are subject to New York State and local sales tax as an information service are subject to the full rate of state and local tax imposed in each locality, including New York City.

Sales taxes imposed by certain school districts

Certain school districts in New York State impose sales tax on utilities and utility services

Certain school districts in New York State impose sales tax on sales of the following utilities and utility services:

- gas (including propane sold in containers of 100 pounds or more), electricity, refrigeration, and steam;
- gas, electric, refrigeration, and steam service;
- telephony and telegraphy, except interstate and international telephony and telegraphy;
- telephone and telegraph services, except interstate and international telephone and telegraph services, including telephone answering services and facsimile transmission services (not including prepaid telephone calling cards and services); and
- mobile telecommunications services provided by a home service provider.

You can look up the combined tax rate on utilities or utility services sold in a school district by utilizing our online [Sales Tax on Utilities Jurisdiction and Rate Lookup](#) service on the Tax Department's Web site at www.nystax.gov. You can also look at [Publication 718-R, Local Sales and Use Tax Rates on Residential Energy Sources and Services](#), and sales tax *Schedule B* and *Schedule T*, for a list of tax rates on utilities or utility services.

Calculating and stating the sales tax

Compute the amount of sales tax due on a sale by applying the combined state and local sales tax rate to the amount of the sale

Generally, you compute the amount of sales tax due on a sale by applying the combined state and local sales tax rate to the amount of the sale. The combined state and local sales tax rate consists of the state sales tax rate, plus the applicable rate of sales tax imposed by the local jurisdiction (city, county, and school district). In addition, the State imposes an additional sales tax in those localities that are within the Metropolitan Commuter Transportation District (MCTD). The MCTD is composed of New York City (Bronx, Kings, New York, Queens, and Richmond counties), and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester counties.

The local tax rates vary by jurisdiction and by the items or services sold. For updated state and local sales tax rates, use our online [Sales Tax Jurisdiction and Rate Lookup](#) service on our Web site at www.nystax.gov. [Publication 718](#), *New York State Sales and Use Tax Rates by Jurisdiction*, also lists the combined state and local rates and the proper jurisdiction and jurisdiction codes.

Note: ZIP codes should not be used for identifying customer location. Postal zones usually do not coincide with political boundaries, and the use of ZIP codes for tax collection results in a high degree of inaccurate tax reporting. Instead, use our *Sales Tax Jurisdiction and Rate Lookup* service to determine the taxing jurisdiction, correct sales tax rate, and jurisdictional reporting code.

For additional information on the sales tax rate publications and sales tax rates, additional sales taxes and fees, see Tax Bulletins [Sales Tax Rate Publications \(TB-ST-820\)](#) and [Sales Tax Rates, Additional Sales Taxes, and Fees \(TB-ST-825\)](#).

Special rules for the calculation of sales tax on the sale of qualified motor fuel and diesel motor fuel

New York State computes the state sales tax on qualified motor fuel and diesel motor fuel using a cents-per-gallon method. The cents-per-gallon method also applies to the additional sales tax imposed on motor fuel and diesel motor fuel in the MCTD. Counties and cities can also elect to change their percentage rate sales tax to a cents-per-gallon method. For more information, see [TSB-M-06\(8\)S](#), *New Guidelines on the Sales of Motor Fuel and Diesel Motor Fuel Subject to the Cents-Per-Gallon Sales Tax*, and [Publication 718-F](#), *Local Sales and Use Tax Rates on Qualified Motor Fuel, Diesel Motor Fuel, and B20 Biodiesel*.

Sales tax exemption and reductions for sales of certain alternative fuels

Alternative fuels (CNG, hydrogen, E85) are exempt from state and local sales tax, provided the fuel meets the definition of qualified fuel. Also, a reduced rate of state and local sales tax applies to biodiesel (B20).

For additional information on these exemptions and reductions, see [TSB-M-06\(10\)S](#), *Sales Tax Exemptions and Reductions for Certain Alternative Fuels Beginning September 1, 2006*.

The point of delivery determines the combined rate to be collected on a sale, except in the case of motor vehicles and certain boats

The point of delivery generally determines the sales tax rate to be applied to a transaction. Therefore, in computing the sales tax due, the rate to be charged is the total of the New York State tax rate in effect in the jurisdiction where delivery takes place, plus the local rate in effect in that jurisdiction, plus the MCTD rate, if it applies. For taxable sales subject to the same tax rate, do not compute sales tax on each item separately. Instead, compute the tax on the total amount of the transaction. However, if separate sales are subject to different tax rates, then compute sales tax on each sale separately.

For assistance in determining the proper jurisdiction for tax collection, go to the department's Web site at www.nystax.gov. Click on Sales Tax and see the link for [Sales Tax Jurisdiction and Rate Lookup](#) service.

Sales of motor vehicles and certain boats to individuals

For sales or long-term leases of motor vehicles and certain boats, the point of delivery does not necessarily determine the rate of sales tax to be collected. If the purchaser or lessee is an individual who is a resident of New York State and the individual takes delivery of a motor vehicle or boat within New York State, sales tax is to be collected at the rate in effect in the local jurisdiction where the individual is a resident. If the individual is a resident of New York State and has one or more residences outside of New York State, sales tax is to be collected at the rate in effect in the local jurisdiction where the individual is a New York State resident.

If an individual is a resident of more than one local taxing jurisdiction within New York State (whether or not the individual has one or more residences outside of New York State), sales tax is to be collected at the rate in effect in the local jurisdiction within New York State where the vehicle or boat is principally used or garaged, or the boat is principally stored. The storage of a boat also includes mooring.

If the purchaser or lessee is an individual who is not a resident of New York State, generally, no sales tax is imposed unless the vehicle or boat is registered in New York State. If the vehicle or boat is registered in New York State, sales tax is to be collected at the rate in effect in the jurisdiction where the vehicle or boat was delivered to the purchaser.

For sales tax purposes, an individual is a resident of New York State and of a local taxing jurisdiction if the individual has a *permanent place of abode* within the jurisdiction. A *permanent place of abode* is a dwelling place maintained by an individual, or maintained on his or her behalf, whether or not owned by the individual, on other than a temporary or transient basis. The dwelling may be a house, apartment, flat, trailer, mobile home, houseboat, or any other premises. It also may be a room, including a room

in a hotel, motel, boarding house, club, or a room at a residence hall operated by an educational, charitable, or other institution. A *permanent place of abode* also includes housing provided by the Armed Forces of the United States, whether the housing is located on or off a military base or reservation.

An individual is also a resident of any local jurisdiction in which he or she carries out any employment, trade, business, or profession with respect to any property used in that trade, business, or profession.

Sales of motor vehicles and certain boats to businesses

If the purchaser or lessee is a business that is a resident of New York State and the business takes delivery of a motor vehicle or boat within New York State, sales tax is to be collected at the combined state and local rate in effect in the local jurisdiction where the business is a resident. If the business is a resident of New York State and has one or more residences outside of New York State, sales tax is to be collected at the rate in effect in the local jurisdiction where the business is a New York State resident.

If a business is a resident of more than one taxing jurisdiction within New York State (whether or not it has one or more residences outside of New York State), sales tax is to be collected at the rate in effect in the local jurisdiction within New York State where the vehicle or boat is principally used or garaged, or the boat is principally stored. The storage of a boat includes mooring it.

If the purchaser is a business that is not a resident of New York State, generally, no sales tax is imposed unless the vehicle or boat is registered in New York State. If the vehicle or boat is registered in New York State, sales tax is to be collected at the rate in effect in the jurisdiction where the vehicle or boat was delivered to the purchaser.

For sales tax purposes, a business is a resident of a New York State taxing jurisdiction if it carries on any employment, trade, profession, or maintains a place of business in the jurisdiction. The storage of property, including vehicles and boats, constitutes maintaining a place of business.

Shipping and delivery charges

If you charge your customer for shipping, handling, or delivery on the sale of tangible personal property or tangible personal property on which a taxable service has been performed, the amount on which the sales tax is to be computed includes your charges for shipping, handling, or delivery. However, if the customer arranges delivery by a third person and pays that person directly, the third person's delivery charge is not taxable. See [TSB-M-92\(2\)S](#), *Delivery Charge Added to Taxable Receipt Effective September 1, 1991*, for more information.

Use the [Sales Tax Jurisdiction and Rate Lookup](#) service on the department's Web site to determine the proper locality and rate of tax.

Whenever you give your customer a written or printed receipt, the amount of sales tax must be separately stated on that receipt. If you do not provide your customer with a written receipt, you may use the alternate unit price method

You are not required to give your customer a written or printed receipt. However, if you do give your customer any sales slip, invoice, receipt, or other statement relating to a sales transaction, you must separately state the amount of sales tax due on the sales slip, invoice, receipt, or other statement.

If you do not provide your customer with a written or printed receipt, you may use the alternate *unit price* method. The unit price is the price of the product, including sales tax, at which the sale is recorded. This price is either rung up on a cash register or accounted for in some other way. If you use this method, you must display a sign telling the customer that the price he or she is paying includes sales tax. You must also distinguish products offered for sale by: labeling them taxable or nontaxable; displaying taxable and nontaxable products separately; or by having a detailed list of taxable and nontaxable products available for the customer. You must keep accurate records distinguishing sales of taxable and nontaxable products.

Exempt sales

In general, if you sell only tangible personal property or services that are always exempt from sales tax (see below), you are not required to substantiate the exempt nature of the sale by receiving an exemption certificate from the purchaser. In addition, you may not be required to register and obtain a *Certificate of Authority* if the only sales that you make are of property and services that are always exempt from tax.

If you sell tangible personal property or a service that is normally taxable but is exempt because, for example, the purchaser is a sales tax exempt organization (certain non-profit organizations), the purchaser intends to resell the property or service, or because the purchaser will use the property or service in an exempt manner, you should collect sales tax unless you receive a properly-completed exemption certificate from the purchaser within 90 days of the date of sale. Please note that if you sell property or services that are normally taxable, even if you only make sales that are exempt or excluded from the imposition of sales tax, you must still be registered for sales tax purposes in order to issue and accept most New York State sales tax exemption certificates. For additional information on exemption certificates, see *Exemption certificates* on page 30 and Tax Bulletin [Quick Reference Guide for Taxable and Exempt Property and Services \(TB-ST-740\)](#).

Exempt sales – No exemption certificate required

Certain sales are always exempt from sales tax. Therefore, the purchaser is not required to give you an exemption certificate to claim the exemption. These exemptions include, but are not limited to, sales of:

- food, food products, certain beverages, dietary foods, and health supplements that are sold by food markets for human consumption.

However, sales of candy, confections, soft drinks, alcoholic beverages, fruit drinks that contain less than 70% natural fruit juice, sandwiches, and heated foods are subject to sales tax. (See [Publication 880](#), *Taxable and Exempt Foods and Beverages Sold at Retail Food Markets and Similar Establishments*, for more information.)

- drugs and medicines intended for internal or external use, in the diagnosis, cure, mitigation, treatment, or prevention of illnesses or diseases in human beings. (See [Publication 840](#), *A Guide to Sales Tax for Drugstores and Pharmacies*.)
- clothing and footwear sold for less than \$110 per item of clothing or per pair of shoes or other articles of footwear, and items used to make or repair exempt clothing, except that this exemption does not apply to any locally-imposed sales taxes unless the county or city imposing the sales tax has elected to also provide for the exemption. (See [Publication 718-C](#), *Local Sales and Use Tax Rates on Clothing and Footwear*.) For additional information on the state clothing exemption, see [TSB-M-06\(6\)S](#), *Year-Round Sales and Use Tax Exemption of Clothing, Footwear, and Items Used to Make or Repair Exempt Clothing, Effective April 1, 2006*.
- medical equipment and supplies. However, medical equipment and supplies purchased for use in providing medical or similar services for compensation, such as services of physicians, hospitals, clinical laboratories, and ambulance companies, are subject to sales tax. (See [Publication 822](#), *Taxable Status of Medical Equipment and Supplies, Prosthetic Devices, and Related Items*.)
- prosthetic aids and devices, hearing aids and eyeglasses.
- services of laundering and dry cleaning, including carpet, drapery, etc., and rug cleaning services.
- newspapers, magazines, and other periodicals.
- tangible personal property sold by any gift shop located in a veterans' home. (See [TSB-M-06\(15\)S](#), *Supplemental Summary of Recently Enacted Legislation Affecting Sales and Use Taxes Effective in 2006*.)
- shoe repair.
- services of a licensed veterinarian constituting the practice of veterinary medicine. (See [Publication 851](#), *A Guide to Sales Tax in New York State for Veterinarians*.)

Exempt sales – exemption certificate required

Certain purchases can be made exempt from sales tax, but only with the issuance of a properly-completed exemption document

If you are registered for sales tax purposes, you can make certain purchases exempt from sales tax that would otherwise be subject to sales tax. The purchase of inventory that will be held for resale; qualifying manufacturing equipment; packaging material; farm equipment; and certain tractors, trailers, and semitrailers are examples of some of these types of purchases. For more complete information on various exemption documents and their uses, see Tax Bulletin [Quick Reference Guide for Taxable and Exempt Property and Services \(TB-ST-740\)](#).

Exemption certificates

You are not required to collect sales tax from a purchaser who furnishes you with a properly-completed exemption certificate within 90 days, provided you accept the certificate in good faith

You are not required to collect sales tax from a purchaser who furnishes you with a properly-completed exemption certificate that you accept in good faith within 90 days of the delivery of property or rendition of a service. Accepting an exemption certificate in good faith means you have no prior knowledge that the document is falsely or fraudulently issued.

Exemption certificates show why you did not collect tax on the sale to which the exemption certificate relates. For example, if you sell an otherwise taxable product to a purchaser who is going to sell the product to someone else, you must collect sales tax unless the purchaser gives you [Form ST-120, Resale Certificate](#), within 90 days of your delivering the product to the purchaser. If you are audited by the Tax Department, the certificate will show the department that you did not collect sales tax because the purchaser has certified that the transaction was not subject to tax. You must maintain a system that associates the certificate with the invoice or other evidence of the sale that you retain as part of your records. For a list of the various exemption certificates and their uses see, Tax Bulletin [Exemption Certificates for Sales Tax \(TB-ST-240\)](#).

The purchaser must give you a properly-completed exemption document within 90 days

If a transaction is exempt from sales tax, the purchaser must give you a properly-completed exemption certificate or other required documentation within 90 days of the delivery of the product or the rendition of the service being purchased, or within 90 days of the hotel occupancy or payment of the amusement charge. If you accept a certificate after 90 days, both you and the purchaser share the burden of proving that the sale was exempt, and additional substantiation may be required. Also, both you and the purchaser may be liable for any tax, penalties, and interest due in the event the sale is determined to be taxable.

Single transaction certificates

The purchaser may give you an exemption certificate for a single sale. You should attach this to your record of the sales transaction that you keep for your files, and keep it for at least three years after the due date of the sales tax return to which it relates, or the date the return was filed, if later.

Blanket exemption certificates

The purchaser may instead give you a blanket exemption certificate. This certificate may be used for the current sale as well as for subsequent sales made to that purchaser. A blanket exemption certificate may only be used by a purchaser to cover additional sales of the same general type. You must keep the blanket exemption certificate for three years after the due date of the most recent sales tax return to which it relates, or the date the most recent return was filed, if later.

Electronic resale and exemption documents

A purchaser may issue an electronic version of a resale certificate or other exemption document to a seller provided the e-certificates meet all departmental requirements as described in [TSB-M-07\(1\)S](#), *Electronic Resale and Exemption Documents for Sales and Compensating Use Taxes*. **Note:** See page 34 for information on keeping adequate records.

Exempt purchasers

Sales to certain individuals and organizations are generally not subject to sales tax. Exempt purchasers include the United States and its agencies and instrumentalities, New York State, and its local governmental agencies and instrumentalities; the United Nations; diplomatic missions and diplomatic personnel; exempt organizations such as religious, charitable, scientific, and educational institutions that have qualified for exempt status under the Tax Law; certain posts or organizations consisting of past or present members of the armed forces of the United States; and certain Indian nations, tribes, or individuals. In each case, the purchaser must establish the right to the exemption by submitting the proper exemption certificate or other documentation to the vendor.

Federal, New York State, and local governmental agencies

The United States government; an agency or political subdivision of the United States government or New York State; or a New York State agency, authority, or political subdivision establishes its right to exemption through the issuance of a governmental purchase order or other appropriate proof that the sale is to the government. Purchases by another state or country or by an agency or locality of another state or country are not exempt from tax.

The United Nations and similar organizations

The United Nations, or any other international organization of which the United States of America is a member, establishes its right to exemption through the issuance of the proper exemption certificate.

Other exempt organizations

Certain not-for-profit organizations (such as charitable, religious, scientific, and educational organizations) must apply for and be granted exempt organization status for sales tax purposes by the Tax Department. These organizations establish their right to exemption through the issuance of the proper exemption certificate.

Posts or organizations of past or present members of the United States armed forces

Posts or organizations consisting of past or present members of the armed forces of the United States, and the qualifying auxiliary units of such posts or organizations, establish their right to exemption through the issuance of the proper exemption certificate.

Indian nations, tribes, and individuals

The following Indian nations or tribes residing in New York State are exempt organizations: Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shinnecock, Tonawanda Band of Senecas, and Tuscarora. These nations or tribes exercise their right to exemption through the issuance of the proper exemption certificate.

Sales to members of recognized Indian nations or tribes are not subject to sales tax, provided that delivery is made to the member of the qualified nation or tribe on a qualified reservation. The qualified reservations are Allegany, Cattaraugus, Oil Spring, Oneida, Onondaga, Poospatuck, St. Regis Mohawk (Akwasasne), Shinnecock, Tonawanda, and Tuscarora.

See page 19 for information on sales by New York and United States governmental entities and certain exempt organizations. For more information, see [Publication 843](#), *A Guide to Sales Tax in New York State for Exempt Organizations*.

Taxable business purchases

You should be aware that you are required to pay sales and use taxes in certain situations, whether or not you are required to be registered for sales tax purposes

If you are conducting business in New York State, you should be aware that you are required to pay sales and use taxes in the following situations, whether or not you are required to be registered for sales tax purposes:

- you purchase taxable property (such as inventory) or services without payment of taxes because you intend to resell them, but you later use the property or services rather than reselling them;
- you purchase taxable property without payment of taxes because you purchased them from a seller who is located outside of New York State, and you use that property in this state;
- you purchase property or services outside of New York State where you pay the other state's tax and use the property or services in New York State and either New York State does not have a reciprocal agreement with the state which would allow you a credit for tax paid to that state, or New York State does have a reciprocal agreement with the other state and the tax rate paid in the other state is less than the New York rate;
- you purchase taxable gas and electricity without payment of taxes because you purchased these commodities from a seller who is located

outside New York State, and your business uses that gas and electricity in this state;

- you send property out of New York State to have a taxable service performed on that property, do not pay tax, and then use that property in this state;
- you purchase taxable property, services, hotel occupancy or pay amusement charges in New York State without payment of taxes;
- you are a resident of a locality (county/city) at the time of a purchase and you purchase taxable property in a locality in New York State that has a lower rate of tax than the (county/city) where you are a resident, and then you bring the property into the locality where you are a resident for sales tax purposes; or
- you are a resident of a locality (county/city) at the time of a purchase and you have a taxable service performed on property in another locality in New York State that has a lower rate of tax than the (county/city) where you are a resident, and then you bring the property into the locality where you are a resident for sales tax purposes.

Taxes due in the above situations are generally computed on the sales price paid. You compute the amount of sales and use taxes due by applying the combined state and local sales tax rate to the selling price (see *Calculating and stating the sales tax* on page 25 of this publication). However, if you use the property outside New York for more than six months prior to its use within the State, tax due may be calculated on the lower of the selling price or fair market value of the property. Also, if you purchase taxable property outside of New York State, and the property is used in the performance of a contract in New York State for a period of less than six months, you may elect to calculate the tax due on the lower of the fair rental value of the property for the period of use within New York State or the sales price paid, but only if the property is not completely consumed, or incorporated into real property, in New York State.

Under certain circumstances, there may be a credit available for the amount of tax paid to another state or local jurisdiction of that state where your business made the purchase. To determine whether the tax you paid to another state or local jurisdiction in another state qualifies for credit against New York State and local tax, see [Publication 39](#), *A Guide to New York State Reciprocal Credits for Sales Taxes Paid to Other States*.

You do not owe tax on property or services purchased outside New York State before you became a resident of New York State or before you began conducting business in New York State. This rule also applies to local sales and use taxes.

If you are registered, or required to be registered, with the Tax Department for sales tax purposes, you must report and pay the sales and use taxes incurred in connection with the taxable business purchases with your business's monthly, quarterly, or annual sales tax return. See page 36 of this publication for information on filing your sales tax return.

If your business is not registered or required to be registered, and is not a sole proprietorship for federal tax purposes, you must pay any use tax due by filing [Form ST-130, Business Purchaser's Report of Sales and Use Tax](#), within 20 days from the date the property or service purchased is first brought or delivered into New York State. If your business is a sole proprietorship, you may remit any use tax due with your annual personal income tax return.

For more information, see [Publication 774, Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department: Questions and Answers](#), and Tax Bulletins [Use Tax for Businesses \(TB-ST-910\)](#) and [Use Tax for Individuals \(including Estates and Trusts\) \(TB-ST-913\)](#).

Part III – Record keeping

Record-keeping rules

Keep detailed records of all sales that are subject to sales or use tax

Keeping good records of your business operation will help you prepare accurate and complete sales tax returns. Your returns must show gross sales, taxable sales, purchases subject to sales or use tax, sales and use taxes due for the specific locality in which the items or services were delivered to your customers, and other special taxes due. See also, Tax Bulletin [Record-Keeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#), for information about record keeping.

If you must register for sales tax purposes or if you have voluntarily registered, you must keep detailed records of all sales by jurisdiction. You must also maintain a method of associating an exempt sale to a particular purchaser with the exemption certificate you have on file for that sale or purchaser. If you issue exemption certificates when you make purchases, you must maintain records of these purchases that will substantiate the exempt use.

Keep your records for a minimum of three years

You must keep your records for a minimum of three years from the due date of the return to which they relate, or the date the return is filed, if later. You must make the records available to the Tax Department upon request.

Sales records

You must keep records of every sale, the amount paid, charged, or due on the transaction, and the sales tax that is due, if any. If you give a written receipt or other evidence of the sale to the purchaser, you must retain a copy of the receipt or other evidence. Otherwise, you must keep a daily

record of all cash and credit sales in a daybook or similar journal. The records and supporting documentation you keep must provide sufficient detail to independently determine the taxable status of each transaction and the amount of tax due and collected.

Delivery records

You must maintain records that substantiate points of delivery of the taxable products or services you sell if delivery was made at a place other than your place of business.

If you sell taxable products or perform taxable services within New York State, you must charge and collect the state's sales tax plus the sales tax due to the locality where the property or service is delivered. This is true regardless of where you made the sale. However, as indicated on pages 26 and 27 of this publication, for sales of motor vehicles and certain boats, the purchaser's place of residence generally controls the jurisdiction and rate of tax.

If you deliver products or perform services outside New York State, there is no New York State sales tax liability, regardless of where you made the sale. However, if you are participating in the sales tax agreement with New Jersey, you must collect the applicable state and local sales tax on deliveries made in that state.

In any case, your invoices must clearly show the place of delivery. In addition, you should keep documentation such as delivery receipts, parcel post receipts, bills of lading, driver log books, or, for deliveries outside the United States, a certified copy of the export declaration from the foreign freight forwarder.

A vendor's charges for postage and handling to deliver taxable products or services are taxable, whether or not the vendor separately states the charges.

Purchase records

You must keep detailed records of the nature, type, value, and amount of all business purchases. You must be able to determine any sales and use tax due on the basis of these records. To fulfill this requirement, you must keep the purchase invoices and prepare a daily, weekly, or monthly analysis.

Maintaining records electronically

If you maintain records in an electronic format, you may be required to give the Tax Department access to your equipment, computer programs, and records. You must make your electronic records available and accessible to the Tax Department, even if the records are also maintained in a hard copy format. For more information, see [TSB-M-09\(17\)S](#), *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*.

A failure to keep adequate records could make you liable for substantial additional tax, penalties and interest

If you fail to keep adequate records and your business is audited by the Tax Department, you could be held liable for substantial additional sales and use taxes plus penalties and interest. The penalties include:

- a penalty of up to \$1,000 for the first quarter or part of a quarter, if you fail to make or maintain records or make them available to the Tax Department. The penalty increases up to \$5,000 for each subsequent quarter or part of a quarter that failure occurs;
- a penalty of up to \$1,000 for each quarter or part of a quarter, if you fail to make your records available in an auditable form; and
- a penalty of up to \$5,000 for each quarter or part of a quarter, if you maintain records in an electronic format and fail to make those records available and accessible to the Tax Department.

In addition, your *Certificate of Authority* could be suspended or revoked, which means you may be out of business.

See [TSB-M-09\(17\)S](#), *Amendments That Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, and [Publication 900](#), *Important Information for Business Owners*, for additional information.

Operators of parking facilities in Manhattan

If you are the operator of a parking facility in New York County (Manhattan), you have specific record-keeping requirements. If you operate more than one parking facility in Manhattan, you must keep separate records for each facility. For more information about these requirements, see [TP-832](#), *Special Requirements for Parking Facility Operators Located in New York County (Manhattan) Made Permanent*.

Part IV – Filing your sales tax return

Filing requirements

You must file a sales tax return on time even if you did not have any taxable sales or business purchases subject to use tax during the filing period

As a registered sales tax vendor, you become a trustee for the State and must file your sales and use tax returns on time. You also must remit any tax due, including any tax that you have not yet collected from purchasers on sales occurring during the filing period. You must file a sales and use tax return on time, even if you have no tax due during the filing period. Sales tax returns are generally due not later than 20 days after the period to which they relate has ended.

If you fail to file a sales tax return on time, penalty and interest are generally calculated on the amount of tax due. However, a penalty, in the minimum amount of \$50, will be imposed whether or not there is any tax

due. Therefore, it is very important that you know the dates by which your returns must be filed, and that you remit any tax due on time.

In order to reduce mailing costs, the Tax Department no longer mails sales tax returns. Registered sales tax vendors can Web File and remit any sales tax due through the [Online Services](#) section of our Web site. For more information on Web filing and the fill-in version of sales tax [Form ST-101, New York State and Local Annual Sales and Use Tax Return](#), see page 38. Sales tax returns are also available on the Tax Department's Web site or by contacting us directly.

For other sources of information regarding filing your sales tax return, please see Tax Bulletins [Filing a Final Sales Tax Return \(TB-ST-265\)](#), [Filing Period Indicators on Final Sales Tax Returns \(TB-ST-270\)](#), and [Filing Requirements for Sales and Use Tax Returns \(TB-ST-275\)](#).

Quarterly filing

When you first register, you will be classified as a quarterly filer unless you meet the conditions described under *Annual filing* on page 38, which will automatically result in your being classified as an annual filer. The 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). As a result, if you are a quarterly filer, you will be required to file quarterly returns by June 20, September 20, December 20, and March 20.

Monthly filing

If the combined amount of your taxable sales and purchases subject to tax totals \$300,000 or more in a quarter, you must file monthly returns. The change to monthly filing status is effective the first month following the quarter in which you exceed \$300,000 or more in taxable transactions. Since the quarterly return that is used as the basis for determining when you must begin filing monthly may not be received by the Tax Department in time to change your filing status, it is your responsibility to notify the Tax Department of a change in your filing status, and file a return for the first month you are required to file monthly. You must continue to file monthly until your taxable sales and purchases are less than \$300,000 for four consecutive quarters, at which time you may request a change to quarterly filing status. Monthly returns are due no later than 20 days after the month to which they apply.

You must also file monthly if you are a distributor of automotive fuel and your sales of automotive fuel total 100,000 gallons or more in a quarter. Since the quarterly return that is used as the basis for determining when you are required to begin filing monthly may not be received by the Tax Department in time to change your filing status, it is your responsibility to notify the Tax Department of the change and file a return for the first month you are required to file monthly. You must continue to file monthly until sales of automotive fuel total less than 100,000 gallons in four consecutive quarters, at which time you may request a change to quarterly filing status.

Annual filing

You will automatically be classified as an annual filer if, on your registration application, you:

- indicate that you do not expect to pay or collect any sales or use tax; and
- describe your major business activity as a *manufacturer* or *wholesaler*.

In addition, the Tax Department may later reclassify you as an annual filer if your total tax due for the four most recently filed quarterly periods (March through February) did not exceed \$3,000. The Tax Department will notify you if you are reclassified as an annual filer.

The annual return covers the period March 1 through February 28 (29 in a leap year). Since sales tax returns are generally due within 20 days after the end of the reporting period, you must file an annual return by March 20 each year.

Web filing and fill-in form

You can Web File many sales tax returns and remit any sales tax due through the [Online Services](#) section of our Web site. You will need to create an *Online Services* business account before you can Web File.

EFT participants (see *Remitting the tax due*, page 40) and monthly filers are required to Web File and remit any tax due on Form ST-810, *New York State and Local Quarterly Sales and Use Tax Return for Part-Quarterly (Monthly) Filers* electronically. In addition, monthly filers are required to Web File Form ST-809, *New York State and Local Sales and Use Tax Return for Part-Quarterly (Monthly) Filers*. You can enroll in our subscription service on our Web site to receive prompt notification of additional online services and electronic filing requirements as they become available.

A fill-in version of Form ST-101, is available for annual filers which can be filled in, printed, and filed with the Tax Department.

For additional information on sales tax return filing options, visit the Tax Department's Web site at www.nystax.gov or contact us directly.

Reproducing returns and schedules

You may reproduce almost any New York State sales tax form (return or schedule), but you must obtain prior approval if you choose to report your sales taxes using either computer-produced returns or computer-generated returns. *Computer-produced returns* are returns that are designed and filled in by a computer peripheral device. *Computer-generated returns* consist of the form's data fields only, line by line, produced by a computer peripheral device on blank paper. While prior approval is not required for other methods of reproduction (photocopying), the reproduction must be substantially the same as the official original forms distributed by the Tax Department. See [Publication 77](#), *Specifications for Reproduction of*

New York State Sales and Use Tax Forms, for more information on the reproduction of sales tax forms.

Completing your sales and use tax return

Your return is used to summarize your business activity

Your return and any required schedules are used to summarize your business activity. Use them to report your gross sales, your sales that are subject to tax, your purchases on which you are required to pay use tax, and the total amount of the credits you are claiming on the return. You must also summarize the sales tax, use tax, and any special taxes you collected, or were required to collect, and compute the amount of sales and use tax you must remit with the return.

Your return must report your businesses' activities by jurisdiction

There are over 80 separate jurisdictions (cities, counties, and school districts) statewide that impose local sales and use taxes. Your return and any required schedules are also used to report, for each of these jurisdictions, the amounts of your sales and purchases by jurisdiction, and the amount of sales or use tax you owe for each jurisdiction. Therefore, you must know your gross sales and purchases, your taxable sales and purchases, the amount of tax you collected or were required to collect, and the jurisdiction in which these transactions occurred.

Tax remitted based on accrual method of accounting

A business may keep its books using the cash or accrual methods of accounting. No matter which record-keeping method you choose to record your business's transactions, you must report any sales made, and remit the applicable sales tax based on the accrual method of accounting. That is, you are required to report taxable sales and remit the tax due on the return covering the period in which the sales are made, regardless of whether your customer has paid you.

Note: If you are a *materialman* (a supplier of building materials), see [TSB-M-99\(2\)S](#), *Materialmen - Pay When Paid*, for information on the rules relating to when you may report and remit sales tax due using the cash method of accounting.

Vendor collection credit

If you file your return on time and remit the amount of sales and use tax due on time, you are entitled to claim a vendor collection credit on your return. The credit is equal to 5% of all taxes and fees collected and paid up to a maximum of \$200 per quarter or longer period. For additional information on the vendor collection credit, see [TSB-M-06\(12\)S](#), *Summary of the 2006 Budget Legislation Relating to Sales Taxes*.

For another source of information regarding the vendor collection credit, see Tax Bulletin [Vendor Collection Credit \(TB-ST-925\)](#).

Remitting the tax due

You must remit the tax due on or before the due date. Late filing or late remittances will subject you to penalties and interest. In addition, a bad check or failed electronic withdrawal fee may be imposed for any amount due that is returned without payment.

Certain large vendors must remit a portion of the state and local sales and use tax due for each period (including prepaid sales and use taxes due on motor fuel and diesel motor fuel) by electronic funds transfer (EFT) or certified check. We will notify you if you must make this type of payment.

Taxpayers may also voluntarily enroll to remit payments by EFT. For more information about the EFT program, call (518) 457-2332 (in-state callers without free long distance call 1 800 338-0054) or visit our Web site at www.tax.state.ny.us/prompt.

Mailing your sales tax return

Send your sales tax return to the address shown on the return.

In addition to the United States Postal Service, you may use certain private delivery services with the assurance that returns, payments, and other correspondence mailed on time will be considered filed on time. The private delivery services that are currently treated in the same manner as the United States Postal Service are listed in [Publication 55](#), *Designated Private Delivery Services*.

Part V – Show and entertainment promoters

Show promoters

A show promoter is a person who organizes or operates a show by granting the use of a location

A *show promoter* includes any person who, directly or indirectly, grants the use of a location to any person for the display for sale or for the sale of taxable products or services, at four or more shows, or who operates four or more shows, during a calendar year. An example of a person who indirectly grants such use of a location is a person who leases space to a person who intends to operate a show. Show promoters may own or lease parking lots, shopping malls, hotels, or any other place where shows are held. Show promoters can be individuals, business groups, trade associations, government agencies, or nonprofit organizations.

The term *show* includes flea markets, craft shows, antique shows, coin shows, stamp shows, comic book shows, fairs, and similar shows, whether the show is held regularly or is an occasional event, at which more than one vendor displays for sale, or makes sales of, taxable products or services.

If, during a calendar year, you operate four or more shows, or lease property or space to others who operate four or more shows, you must get a show permit

If, during the calendar year, a show promoter operates four or more shows, or leases property or space to others who, in the aggregate, operate four or more shows, the show promoter must register before the fourth show and get a permit from the Tax Department to operate a show. However, a show promoter who operates fewer than four shows during a calendar year does not have to register as a show promoter with the Tax Department for that year.

A *show* is a single event lasting up to seven consecutive days. On the eighth consecutive day, a second show automatically begins; on the fifteenth consecutive day, a third show begins; and so forth. If there is a break between show dates, a new show automatically starts on the first day after the break. If one or more days of a show are rained out, or canceled due to some other uncontrollable event, the break does not automatically start a new show.

Filing for a show permit

A show promoter must file [Form DTF-723](#), *Application for Show Permit and Notice of Show*, at least 10 days before the fourth show opens. Only one permit is required for all shows held at the same location during the calendar year, but the shows must be listed individually on the application and on the back of the permit. A show promoter must file Form DTF-723, at least 10 days before each additional show that is held at a different location, or for each show that is not listed on the permit held by the promoter.

If the application for a show promoter's permit is approved, the Tax Department will send the applicant a validated Form DTF-724, *Permit to Operate a Show*, within five days after receiving a properly-completed application. The show promoter must display the validated permit at the main entrance to the show where everyone can see it.

Responsibilities of a show promoter

A show promoter cannot let anyone at the show offer for sale, or make sales of, taxable products or services unless that person is registered as a vendor with the Tax Department. A show promoter must, in addition, make sure that each vendor who is making sales of products or services at the show clearly displays a validated *Certificate of Authority* (for example, Form DTF-17A or DTF-17R).

Record-keeping and filing requirements

Starting with the fourth show, the show promoter must keep a record of each vendor who participates in the show. These records must have the following information for each vendor: name, address, New York State *Certificate of Authority* number (include vendors who claim that their sales are tax exempt), and amount of rent paid. These records must be kept for at least three years, unless the Tax Department gives permission for them to be destroyed earlier.

A show promoter must file [Form DTF-727](#), *Report of Show*, within 20 days after the end of the month in which a show is scheduled to be held. A

separate report must be filed for each show scheduled in that month. If the dates of a single show include the last day of one month and the first day of the next month, that show may be reported as though all dates of that show occurred in the second month. This report must be filed even if a scheduled show was canceled. [Form DTF-727-I](#), *Instructions for Form DTF-727, Report of Show*, gives detailed instructions on how the report should be completed and filed.

Form DTF-724, *Permit to Operate a Show*, must be returned along with Form DTF-727, that covers the last show date indicated on the permit.

When a show has more than one promoter, each promoter must file Form DTF-727, but only one promoter needs to submit a list of participating vendors (as shown on the back of Form DTF-727). However, each promoter is responsible for ensuring that the list of participating vendors is submitted. Promoters who do not list participating vendors must include on their Form DTF-727, the names, addresses, and show permit numbers of the other promoters, and indicate which one is submitting the list of vendors.

Entertainment promoters

An entertainment promoter is an owner or operator of a facility where entertainment events are held

An *entertainment promoter* includes any person who, directly or indirectly, owns or operates a facility or site where entertainment events are held, and who allows vendors to make sales of tangible personal property at an event. An entertainment promoter may also be someone who, directly or indirectly, rents, leases, or grants a vendor a license to use space at an entertainment event or who has management responsibility with respect to those vendors making sales at such event.

An *entertainment event* includes a concert, an athletic contest or exhibition (other than an amateur sports competition), and other similar forms of entertainment such as a musical show, dramatic play, rodeo, auto race, or a dog show, where:

- the persons performing at the event give less than four performances per week at the same location where the event occurs, or in the case of athletic contests or exhibitions between teams, no one team competes in more than four contests per year at that location; **and**
- the facility or site where the event is held holds more than 1,000 people.

Example: A professional football team that plays 10 games a year at its home field hosts an out-of-state team to play a regular season game. This game is not considered to be an entertainment event because one of the teams competes at that location more than four times a year.

The term *entertainment event* does not include events such as high school or college athletic games, little league games, or festivals featuring amateur sporting events. In the case of concerts, plays, shows or other similar forms of entertainment, the term *entertainment event* does not include an event that consists of four or more performances by the same person or persons during a weekly period at the same facility or site.

**Filing for an
Entertainment
Promoter Certificate**

If sales of tangible personal property are going to be made at one or more entertainment events, the promoter must file [Form DTF-728, Application for Entertainment Promoter Certificate](#), at least 20 days before the first entertainment event is held. The Tax Department will, within 10 days after receiving a properly-completed Form DTF-728, send the entertainment promoter a validated Form DTF-729, *Entertainment Promoter Certificate*, if the application is approved.

Only one certificate is required for all events held at the same location during the calendar year, and those events must be listed on the back of the permit. An entertainment promoter must file Form DTF-728 for each additional event held at a different location or for each event not listed on the original permit held by the promoter.

**Responsibilities of
an entertainment
promoter**

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 a registered vendor. The entertainment promoter must also make sure that each vendor making sales of taxable products at the event displays a validated *Certificate of Authority* (for example, DTF-17A or DTF-17R). Entertainment promoters who allow an unregistered vendor to make taxable sales of tangible personal property at an entertainment event may be subject to a substantial penalty.

An entertainment promoter must keep records of the name, address, and *Certificate of Authority* number of every vendor that the entertainment promoter authorizes to make taxable sales, at each entertainment event for which he or she is a promoter.

An entertainment promoter must also file [Form DTF-730, Report of Entertainment Event](#), within 20 days after the end of the month in which an entertainment event was scheduled to be held. The entertainment promoter must file this report even if an event was canceled. [Form DTF-730-I, Instructions for Form DTF-730](#), provides detailed instructions on how to complete this report.

If the dates of a single event include the last day of one month and the first day of the next month, that event may be reported as though the entire event occurred in the second month.

Form DTF-729, *Entertainment Promoter Certificate*, must be returned with Form DTF-730, covering the last event date on the permit.

These requirements apply to an entertainment promoter whether or not admissions are charged for the event, and whether or not any charges for admissions are taxable. If there is more than one entertainment promoter for any entertainment event, the requirement imposed on an entertainment promoter will be satisfied if any one promoter complies with the requirement.

Part VI - Purchasing or acquiring a business or its assets: Caution

Bulk sales transactions

If you are acquiring business assets of an existing business, you may be held liable for any sales taxes that are due to the Tax Department from the seller/transferor

If you are purchasing or otherwise acquiring some or all of the business assets of an existing business other than in the ordinary course of the seller's business, you may be held personally liable for any sales taxes determined to be due the Tax Department from the seller. You may be held liable for the amount of the seller's unpaid sales taxes, up to the selling price or fair market value of the assets purchased or acquired, whichever is greater. This applies whether the assets you are acquiring are tangible personal property, intangible property, or real property.

The sale, transfer, or assignment of business assets, in whole or in part, other than in the seller's ordinary course of business by a person required to collect tax and pay over the same to the Tax Department is called a *bulk sale transaction*.

If you are the purchaser, transferee, or assignee in a bulk sale transaction you will not be held liable for the seller's unpaid sales tax if you comply with the requirements listed below.

Notify the Tax Department – You must notify the Tax Department of the pending bulk sale transaction at least 10 days before paying for or taking possession of any business assets, whichever occurs first, by filing [Form AU-196.10, Notification of Sale, Transfer, or Assignment in Bulk](#). You must send Form AU-196.10 by registered mail to the address given on the form. While the seller is supposed to advise you of this notification requirement, the failure of the seller to give you this notification does not relieve you of liability for the seller's unpaid sales taxes. When the 10th day falls on a Saturday, Sunday, or legal holiday in New York State, notice will be considered timely if given on the next succeeding day which is not a Saturday, Sunday, or legal holiday in New York State.

Withhold consideration payable to the seller until authorized by the Tax Department – Within five business days of receiving Form AU-196.10, the Tax Department will advise you as to whether it is possible that the seller has unpaid sales taxes. If the seller does not have any unpaid sales taxes and if an additional review or audit is not necessary, the Tax Department will issue to you Form AU-197.1, *Purchaser's and/or Escrow Agent's*

Release-Bulk Sale. If the seller has unpaid sales taxes or is selected for additional review or audit, the Tax Department will issue the purchaser Form AU-196.2, *Notice of Claim to Purchaser*.

If you receive Form AU-197.1 – If you receive Form AU-197.1, you may pay the seller the full purchase price. The Tax Department will not hold you liable for any unpaid sales taxes, even if there are outstanding warrants or judgments.

If you receive Form AU-196.2 – If you receive Form AU-196.2, you are advised not to pay the seller until the Tax Department completes its review of the seller's sales tax account.

If the Tax Department does not issue Form AU-196.2 within five business days of the date of receipt of a properly-completed and timely-filed Form AU-196.10, the purchaser cannot be held liable for any of the seller's unpaid sales taxes unless there are outstanding warrants or judgments for unpaid sales taxes.

For purposes of the Tax Department's obligation to respond within five business days, the date of receipt of Form AU-196.10 by the Tax Department will be the date it was actually delivered to the Bulk Sales Unit of the Audit Division, but no earlier than 10 days before the later of the scheduled date of sale or the actual date of sale. (The actual date of sale is deemed to be the earlier of the date of payment or taking possession of the business assets.)

Within 90 days of the receipt of Form AU-196.10, the Tax Department must notify you (and the seller) of the actual amount of sales taxes due from the seller for which you will be held liable. Upon receipt of Form AU-196.2, the purchaser may wish to consult a tax practitioner about the best course of action to take.

The following examples illustrate common bulk sale transactions:

Example 1: Corporation A, a person required to collect sales tax, sells its business assets to Corporation B. This sale is a bulk sale transaction.

Example 2: Corporation A, a person required to collect sales tax, transfers all of its business assets to Corporation B in exchange for stock in Corporation B. The transfer of Corporation A's assets to Corporation B is a bulk sale transaction.

Example 3: Corporation A purchases all the issued and outstanding stock of Corporation B, a person required to collect sales tax. Corporation A and Corporation B will continue to exist as separate legal entities. Since the business assets of Corporation B have not been

transferred in connection with the sale of its stock, this is not a bulk sale transaction.

Example 4: Corporation A, a person required to collect sales tax, sells its entire inventory which is purchased by Corporation B for resale. The sale by Corporation A is a bulk sale transaction.

Example 5: Mr. Smith, a person required to collect sales tax, makes a gift of all of his business assets to another person. This transfer is a bulk sale transaction.

If you have any questions about the bulk sale requirements, call (518) 457-4164 from 8:00 a.m. to 4:00 p.m. (eastern time), Monday through Friday. Please have either the assigned bulk sales case number or the name and the sales tax identification number of the seller or the purchaser available when you call.

In addition to the above bulk sale transaction notification requirements, if you intend to operate the business, you need to determine your registration requirements. For information on registering for sales tax purposes, see Part I of this publication. For information on other tax related registration requirements, see [Publication 20](#), *New York State Tax Guide For New Businesses*.

You may owe sales tax on the business assets purchased

In addition to your obligations and requirements with respect to the bulk sale as described above, you are responsible for paying the sales tax due, if any, on any tangible personal property purchased or otherwise acquired in a bulk sale transaction. Sales tax is not imposed on the sale of real property or intangible assets, such as goodwill.

Appendix – List of common sales tax forms

Sales tax registration:

[DTF-17](#)..... Application to Register for a Sales Tax Certificate of Authority

Business account updates:

[DTF-95](#)..... Business Tax Account Update

[DTF-96](#)..... Report of Address Change for Business Tax Accounts

Sales tax returns:

[ST-100](#)..... New York State and Local Quarterly Sales and Use Tax Return

[ST-101](#)..... New York State and Local Annual Sales and Use Tax Return

[ST-809](#)..... New York State and Local Sales and Use Tax Return for Part-Quarterly (Monthly) Filers

[ST-810](#)..... New York State and Local Quarterly Sales and Use Tax Return for Part-Quarterly (Monthly) Filers

Sales tax exemption forms:

[ST-120](#)..... Resale Certificate

[ST-120.1](#)..... Contractor Exempt Purchase Certificate

[ST-121](#)..... Exempt Use Certificate

[ST-124](#)..... Certificate of Capital Improvement

Other sales tax forms:

[AU-11](#) Application for Credit or Refund of Sales or Use Tax

[AU-12](#) Application for Credit or Refund of Sales or Use Tax – Qualified Empire Zone Enterprise (QEZE)

[AU-196.10](#) Notification of Sale, Transfer, or Assignment in Bulk

[ST-130](#)..... Business Purchaser’s Report of Sales and Use Tax

[ST-140](#)..... Individual Purchaser’s Annual Report of Sales and Use Tax

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

Business Tax Information Center: (518) 457-5342
For in-state callers without free long distance: 1 800 972-1233

To order forms and publications: (518) 457-5431
For in-state callers without free long distance: 1 800 462-8100



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. 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.

**NYS TAX DEPARTMENT
W A HARRIMAN CAMPUS
ALBANY NY 12227**