



Instructions for Form ST-140

Individual Purchaser's Annual Report of Sales and Use Tax

ST-140-I

Who may use this form?

Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*, is for use by individuals, estates, and trusts to report and pay sales or use tax on an annual basis. Generally, individuals, estates, and trusts report unpaid sales or use tax for the annual period covered by their tax year for federal income tax purposes.

Note: If the individual, estate, or trust is registered, or required to be registered, for sales tax purposes, all sales and use taxes owed with respect to business purchases must be reported and paid with the individual's, estate's, or trust's periodic sales and use tax returns.

Generally, individuals, estates, and trusts that are filing a New York State personal income tax return report on such return sales or use tax liability arising during the period covered by their tax year for federal income tax purposes.

Individuals, estates, and trusts not filing a New York State personal income tax return, but that owe sales or use tax, must file Form ST-140 by the date their federal income tax return is due (generally April 15th), without regard to any extension of time to file. If no federal income tax return is required to be filed, Form ST-140 is due on the date the federal income tax return would have been due, without regard to any extension of time to file. Alternatively, an individual, estate, or trust not filing a New York State personal income tax return may file Form ST-141, *Individual Purchaser's Periodic Report of Sales and Use Tax*, periodically to report sales or use tax liability arising during the period covered by their tax year for federal income tax purposes.

Businesses, such as corporations, partnerships, limited liability companies, and limited liability partnerships operating in New York State that are not registered or required to register for sales tax purposes must report their sales and use tax liability by filing Form ST-130, *Business Purchaser's Report of Sales and Use Tax*.

Individuals, estates, or trusts, who have reported and paid sales or use tax on their New York State personal income tax return may not redetermine the amount of use tax they owe by filing an amended New York State personal income tax return. If the amount of sales or use tax due is greater than the amount paid with your original New York State personal income tax return, you must report the additional amount of sales or use tax due on Form ST-140. If you wish to request a refund of any sales or use tax you originally paid with the personal income tax return, you must file Form AU-11, *Application for Credit or Refund of Sales or Use Tax*.

Deliveries into New York State

You owe state and local sales or use tax if you:

- purchase property or a service that is delivered to you in New York State without payment of New York State and local tax to the seller, such as through the Internet, by catalog, from television shopping channels, or on an Indian reservation.

Purchases outside New York State with subsequent use in New York State

You may also owe state and local sales or use tax if you are a *resident* of New York State at the time you purchase any of the following *outside* New York State:

- property you bring into New York State for use in New York State;
- a service performed on property outside New York State, and you bring that property into New York State for use here; or
- a service (such as an information service) you bring into New York State for use here.

(You may be eligible for a credit for sales or use tax paid to another state. See *Instructions for Worksheets 1, 2, and 3*, Column D, on page 2.)

However, you are not required to pay state or local sales or use tax on any property or service that you bring into New York State which

you purchased outside of the state before you became a resident of New York State.

Additional local tax

You may owe an additional **local** tax if you are a resident of a locality (county or city) at the time of purchase and you:

- bring property into that locality which you purchased in another locality in New York State that has a lower tax rate;
- bring property into that locality on which you had a taxable service performed in another locality in New York State that has a lower tax rate; or
- bring a service (such as an information service) into that locality which you purchased in another locality in New York State that has a lower tax rate.

However, you are not required to pay any additional local tax on any property or service that you bring into a locality in New York State that you purchased outside that locality before you became a resident of that locality.

Note: For purposes of these sales and use tax instructions, the word *tax* will be used to refer to either the sales tax or the use tax, or both.

Who is a New York State resident for sales and use tax purposes?

For sales and use tax purposes, the definition of *resident* includes persons who may not be considered residents for personal income tax purposes. For example, persons maintaining a permanent place of abode in New York who do not spend more than 183 days a year in the state, college students, and military personnel may all be residents for sales and use tax purposes even if they are not residents for income tax purposes. For sales and use tax purposes, an individual is a resident of the state and of any locality in which he or she maintains a permanent place of abode. A *permanent place of abode* is a dwelling place maintained by a person, or by another for that person to use, whether or not owned by such person, on other than a temporary or transient basis. The dwelling may be a home, apartment or flat; a room including a room at a hotel, motel, boarding house, or club; a room at a residence hall operated by an educational, charitable or other institution; housing provided by the armed forces of the United States, whether the housing is located on or off a military base or reservation; or a trailer, mobile home, houseboat, or any other premises. This includes second homes. Therefore, you can be a resident of more than one locality and state for sales and use tax purposes.

An individual doing business in New York State is a resident for sales and use tax purposes of the state and of any county or city in which the individual is doing business, with respect to purchases of taxable property or services used in the business. Therefore, if an individual is engaged in business in New York State but has no permanent place of abode in New York State, the individual will owe use tax only on taxable purchases made with respect to the business operated in New York.

An estate or trust that is carrying on a business, trade, profession, or employment in New York State is a resident of the state and of any county or city in which the estate or trust is carrying on these activities, with respect to purchases of property or services used in these activities.

What tangible personal property and services are subject to sales and use taxes?

Most tangible personal property is subject to tax. Some examples are: cigarettes and other tobacco products; alcohol; candy; clothing; books; electronic equipment; furniture; collectibles (stamps, coins, etc., bought for collections); works of art; off-the-shelf computer software; and, generally, a garage sale item costing more than \$600.

Some examples of exempt items are: prescription and nonprescription drugs and medicines used for humans; certain medical equipment; newspapers; periodicals; most food items; U.S. and New York State Flags; Indian arts and crafts when purchased on an Indian reservation; used mobile homes; and college textbooks.

Only certain services are subject to tax. Taxable services include maintaining, servicing and repairing tangible personal property and real property (land and buildings). Some examples are auto repair, appliance service, house repairs, lawn maintenance, and information services. Some examples of exempt services are dry cleaning, veterinary, legal, and medical services.

Note: At the time of registration, the New York State Department of Motor Vehicles (DMV) collects any unpaid sales or use tax on a motor vehicle, trailer, all-terrain vehicle, vessel, or snowmobile that must be registered or titled by DMV. Therefore, do not report or pay the sales or use tax on these items on your Form ST-140.

What happens if I don't pay the sales or use tax due?

Failure to pay sales or use tax may result in the imposition of penalty and interest. The Tax Department conducts both routine and special audits to promote compliance. In addition, the U.S. Customs Service provides the department with information from customs declarations filed by New York State residents returning from overseas travel. The department also obtains information on sales to New York State residents under information exchange agreements with other states.

For more information, see Publication 774, *Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department: Questions and Answers*. For more information on taxable and exempt goods and services, see Publication 750, *A Guide to Sales Tax in New York State*.

Instructions for Worksheets 1, 2, and 3

Column A — Purchase price

The tax is generally computed on the price you paid for an item or service, **including** any shipping or handling charges made by the seller. However, if you were a resident of New York State for sales and use tax purposes at the time of purchase and you purchased property outside New York State which you used outside the state for more than six months before you brought it into the state, compute the tax on the lower of the cost or fair market value of the property at the time you brought it into New York State. This may result in a lower amount of tax. The same six-month rule applies for computing local tax.

Column B — Rate

The tax rate to use is determined as follows:

- If the property or service is delivered to you in New York State, the tax is computed at the combined state and local rate in effect in the locality where the delivery occurs, regardless of where you reside. The rate that applies is the rate in effect at the time of delivery.
- If you are a New York State resident for sales and use tax purposes and you purchase property or services outside New York State that you bring into New York State to your jurisdiction of residence, compute the tax at the combined state and local rate in effect where you reside. The rate that applies is the rate in effect at the time you brought the property or service into that jurisdiction.

In addition, if you use the property or service in another locality in New York State, you owe tax to the second locality if you were a resident of that locality at the time of the purchase, and its rate is higher than the rate in effect where you made the purchase.

Column D — Tax paid to another taxing jurisdiction, if any

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*. If you bought the item or service in a locality in New York State other than the New York locality where you reside, the tax you paid at the time of purchase may be claimed as a credit against the tax due in the New York locality where you reside. Federal excise taxes and customs duties and taxes and fees you paid in foreign countries are not allowed as a credit against any New York State or local sales or use tax that you owe.

Penalty and interest

If you file this return late or make payment late (see *Who may use this form?*), you must pay a penalty and interest.

You can estimate your penalty and interest by visiting our Web site and clicking on *Online Tax Center*, or you may call the Sales Tax Information Center to have a Tax Department representative estimate your penalty and interest for you (see *Need help?* below). Enter this amount in box 5.

Send your completed return and a check or money order payable to **New York State Sales Tax** for the tax, plus any penalty and interest due, to:

**NYS TAX DEPARTMENT
SALES TAX DESK AUDIT — CASUAL SALES UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



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



Fax-on-demand forms: 1 800 748-3676



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

Sales Tax Information Center: (518) 485-2889

For in-state callers without free long distance: 1 800 698-2909

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): 1 800 634-2110



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.

Chart 1

New York State Sales and Use Tax Rates by Jurisdiction

This chart and the notes below show the combined state and local tax rates during **calendar year 2008**. Use the applicable rates for your entries in the Worksheets on pages 2 and 3 on Form ST-140, depending on the date or dates of your purchases. Changes to county and city rates that occurred during the year are noted in the footnotes below. New York City comprises

five counties. These counties are also boroughs whose names are more widely known. The counties, with borough names shown in parentheses, are Bronx (Bronx), Kings (Brooklyn), New York (Manhattan), Queens (Queens), and Richmond (Staten Island).

County or other locality	Tax rate %	County or other locality	Tax rate %	County or other locality	Tax rate %
New York State — only	4	Herkimer	8¼	St. Lawrence	7
Albany	8	Jefferson	7¾	Saratoga—except	7
Allegany	8½	Kings (Brooklyn)—see <i>New York City</i>		Saratoga Springs (city)	7
Bronx—see <i>New York City</i>		Lewis	7¾	Schenectady	8
Brooklyn—see <i>New York City</i>		Livingston	8	Schoharie	8
Broome	8	Madison—except	8	Schuyler	8
Cattaraugus—except	8	Oneida (city)	8	Seneca	8
Olean (city)	8	Manhattan—see <i>New York City</i>		Staten Island—see <i>New York City</i>	
Salamanca (city)	8	Monroe	8	Steuben—except	8
Cayuga—except	8	Montgomery	8	Corning (city)	8
Auburn (city)	8	Nassau	8⅝	Hornell (city)	8
Chautauqua	7¾	New York (Manhattan)—see <i>New York City</i>		Suffolk	8⅝
Chemung	8	New York City	8⅜	Sullivan	8
Chenango—except	8	Niagara	8	Tioga	8
Norwich (city)	8	Oneida—except ²	8¾	Tompkins—except	8
Clinton	8	Rome (city)	8¾	Ithaca (city)	8
Columbia	8	Utica (city)	8¾	Ulster	8
Cortland	8	Onondaga	8	Warren—except	7
Delaware	8	Ontario	7⅞	Glens Falls (city)	7
Dutchess	8⅞	Orange	8⅞	Washington	7
Erie	8¾	Orleans	8	Wayne	8
Essex	7¾	Oswego—except	8	Westchester—except	7⅞
Franklin	8	Oswego (city)	8	Mount Vernon (city)	8⅞
Fulton—except	8	Otsego	8	New Rochelle (city)	8⅞
Gloversville (city)	8	Putnam	8⅜	White Plains (city) ¹	8⅞
Johnstown (city)	8	Queens—see <i>New York City</i>		Yonkers (city)	8⅞
Genesee	8	Rensselaer	8	Wyoming	8
Greene	8	Richmond (Staten Island)—see <i>New York City</i>		Yates	8
Hamilton	7	Rockland	8⅜		

1 The city of White Plains combined rate was 7⅞% from January 1, 2008, through May 31, 2008.

2 The city of Sherrill, located in Oneida County, repealed its local sales and use tax effective September 1, 2008, but remains subject to the Oneida County combined rate.

Chart 2

Local Sales and Use Tax Rates on Clothing and Footwear

Local tax rates are shown below for jurisdictions that imposed tax on purchases of clothing and footwear costing **less than \$110** per item, excluding shipping and handling, during **calendar year 2008**. Changes to local rates that occurred during the year are noted in the footnotes below.

There is a year-round exemption from the 4% New York State sales and use taxes for clothing, footwear, and items used to make or repair exempt clothing costing **less than \$110** per item or pair. The exemption does not apply to locally imposed sales and use taxes unless the county or city imposing those taxes elected the exemption.

Effective September 1, 2007, sales in New York City of clothing and footwear costing **\$110 or more** are exempt from the 4% New York City local tax. These sales remain subject to the New York State 4% sales and use taxes and the $\frac{3}{8}$ % MCTD taxes.

NYC comprises five counties which are also boroughs whose names are more widely known (see *Chart 1*).

Use these rates for your entries in the worksheets on pages 2 and 3 of Form ST-140. If the rate for your locality is **0**, no state or local tax is due on clothing and footwear costing **less than \$110** purchased during that period.

Taxing jurisdiction	Tax rate %
Albany County	4
Allegany County	4½
Broome County	0
Cattaraugus County (outside the following)	4
Olean (city)	4
Salamanca (city)	4
Cayuga County (outside the following)	4
Auburn (city)	4
Chautauqua County	0
Chemung County	4
Chenango County (outside the following)	0
Norwich (city)	0
Clinton County	4
Columbia County	0
Cortland County	4
Delaware County	0
Dutchess County	0
Erie County	4¾
Essex County	3¾
Franklin County	4
Fulton County (outside the following)	4
Gloversville (city)	4
Johnstown (city)	4
Genesee County	4
Greene County	0
Hamilton County	0
Herkimer County	4¼
Jefferson County	3¾
Lewis County	3¾
Livingston County	4
Madison County (outside the following)	0
Oneida (city)	2
Monroe County	4
Montgomery County	4
Nassau County	4⅝
New York City	0
Niagara County	4
Oneida County (outside the following) ²	4¾
Rome (city)	4¾
Utica (city)	4¾
Onondaga County	4
Ontario County	3⅛
Orange County	4⅛
Orleans County	4

Taxing jurisdiction	Tax rate %
Oswego County (outside the following)	4
Oswego (city)	4
Otsego County	4
Putnam County	4⅜
Rensselaer County	4
Rockland County	4⅜
St. Lawrence County	3
Saratoga County (outside the following)	3
Saratoga Springs (city)	3
Schenectady County	4
Schoharie County	4
Schuyler County	0
Seneca County	4
Steuben County (outside the following)	4
Corning (city)	4
Hornell (city)	4
Suffolk County	4⅝
Sullivan County	4
Tioga County	0
Tompkins County (outside the following)	4
Ithaca (city)	4
Ulster County	4
Warren County (outside the following)	3
Glens Falls (city)	3
Washington County	3
Wayne County	0
Westchester County (outside the following)	3⅜
Mount Vernon (city)	4⅜
New Rochelle (city)	4⅜
White Plains (city) ¹	4⅛
Yonkers (city)	4⅜
Wyoming County	4
Yates County	4

1 The city of White Plains rate was 3⅞% from January 1, 2008, through May 31, 2008.

2 The city of Sherrill, located in Oneida County, repealed its local sales and use tax effective September 1, 2008. Sales in the city of Sherrill of clothing and footwear costing less than \$110 were subject to tax at the rate of 3¾% from January 1, 2008, through August 31, 2008. Such sales were subject to tax at the rate of 4¾% from September 1, 2008, through December 31, 2008.