

Revocation of Tax Exempt Status of Identified Terrorist Organizations

This publication describes the effects of new Tax Law section 27, which became effective on September 7, 2004. Section 27 provides for the revocation of the New York State tax-exempt status of terrorist organizations that are, pursuant to section 501(p) of the Internal Revenue Code (IRC), no longer tax-exempt for federal income tax purposes. See Publication 845.1, *Identified Terrorist Organizations*, for a current list of these organizations.

General

Tax Law section 27 provides that an organization whose name has been published pursuant to IRC section 501(p) and that is no longer tax-exempt for federal purposes due to the organization's designation as one that supports or engages in terrorist activity or supports terrorism will not be exempt from any tax, fee, or other imposition administered by the Commissioner of Taxation and Finance and will not be an exempt organization with respect to any sale, transfer, or assignment.

When Affected

The revocation begins on the date that the Internal Revenue Service (IRS) publishes its notice of an organization's suspension pursuant to IRC section 501(p). Therefore, as of such date, an organization whose tax-exempt status has been suspended is subject to all applicable taxes and fees administered by the Commissioner of Taxation and Finance, including, but not limited to, the real estate transfer tax, mortgage recording tax, motor fuel and diesel motor fuel excise taxes, petroleum business tax, and New York State and local sales and compensating use taxes. For purposes of the New York State income or corporate franchise tax, such revocation applies to the entire taxable year in which the revocation occurs and to subsequent tax years, or portions thereof, during which the IRS suspension is in effect.

Purchases by identified terrorist organizations

An organization whose New York State tax-exempt status has been revoked pursuant to Tax Law section 27 must, upon notification by the Tax Department, immediately surrender its sales and use tax *Exempt Organization Certificate*. As a result of the revocation of its tax-exempt status, the organization must pay sales and use taxes on its purchases of taxable property or services. Therefore, New York registered vendors must begin collecting sales tax on all sales of taxable property and services made to such organization. (Publication 845.1, *Identified Terrorist Organizations*, will be updated as needed to reflect newly designated terrorist organizations).

Additionally, if after the date of the revocation of tax-exempt status such organization purchases or first uses taxable property or services in this State for which the sales tax has not been collected by the seller, then the organization must remit the sales or use tax directly to the Tax Department.

Sales by identified terrorist organizations

Sales of taxable property or services by an organization whose New York State tax-exempt status has been revoked pursuant to Tax Law section 27 are subject to sales and use taxes. Therefore, before such an organization sells taxable property or services, the organization must register for sales tax purposes. Once registered, the organization must collect and pay over any sales tax due on its sales of taxable property and services. Should the organization fail to collect and pay over the sales tax due, it is liable for the unpaid tax, penalty, and interest; the purchaser is also liable for any unpaid sales or use tax and must pay the tax directly to the Tax Department.