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Sales Tax
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Update to Publication 32
New Jersey/New York Cooperative Interstate
Sales and Use Tax Administration

Note: This is an update to existing Publication 32, which is dated November 1996.

The following contact information has been updated to reflect the current address and telephone number for the appropriate agency for additional information regarding the New Jersey/New York Cooperative Interstate Sales and Use Tax Administration.

NYS Tax Department
Sales Tax Registration Section
W A Harriman Campus
Albany NY 12227
(800) 972-1233

State of New Jersey
Division of Taxation
PO Box 264
Trenton NJ 08695-0264
(609) 588-3764

New Jersey/New York Cooperative Interstate Sales and Use Tax Administration

What is this agreement?

A border sales tax agreement allows participating New York State and New Jersey merchants selling taxable goods and services across state lines to voluntarily collect the neighboring state's use tax. The agreement also permits the states to actively exchange sales and use tax information.

Why did the states sign this agreement?

Previously, it had been too easy for customers to evade payment of New Jersey and New York use tax on sales across state lines. This resulted in substantial losses of revenue for both states.

The agreement provides for the joint administration of both states' sales and use tax laws. Both state tax agencies share information on customers and purchases; this makes it difficult for tax due on sales between the two states to go uncollected. It also helps eliminate the unfair competitive advantage that some out-of-state merchants have over in-state vendors when dealing with in-state customers.

What is use tax?

Use tax is a tax on the use of tangible personal property or services. Sales and use taxes are complementary taxes and are assessed at the same rates. Typically, a use tax is owed where sales tax has not been paid. Use tax is payable to the state in which the item is used, at that state's rate.

The use tax is not new, but in the past it has been enforced mainly against businesses. Now, individual customers are also held accountable for any use tax due on out-of-state purchases.

Example: John Doe, a resident of Newark, New Jersey, goes to New York City to purchase a console television from a discount store whose only outlets are in New York. The purchase price is \$800. The vendor agrees to ship the television set to John's home in Newark. Since this item was shipped to the purchaser across state lines, the vendor is not required to collect the New York sales tax. However, John has incurred a use tax liability of \$48 (\$800 x 6%), payable to New Jersey.

Who can participate in this agreement?

As a vendor, you are generally eligible to participate if you:

- 1) are registered for sales tax collection in the state in which you have a physical location;
- 2) do not have outstanding sales tax liabilities in New York and/or New Jersey;
- 3) buy or sell taxable goods and services across the New York/New Jersey border; and
- 4) do not have a physical place of business in both New York and New Jersey.

Why should I participate?

Participation in this agreement is voluntary. As a participating merchant, you will benefit from:

- **One registration** filed with your home state;
- **One tax return** filed with your home state;
- **One remittance** paid to your home state;
- **One sales and use tax audit** coordinated by your home state; and
- Tax liabilities settled between you and the auditor, with no involvement of your customers.

Additional benefits include the use of the neighboring state's exemption certificates for qualified border transactions, certainty of your responsibilities to both states and continued customer goodwill.

These benefits are explained in greater detail below.

One registration

You can get a registration application from either New York or New Jersey. Upon acceptance, a *Certificate of Authority* to collect and remit the neighboring state's use tax will be sent to you.

One tax return

You will not file sales and use tax returns with both states. Tax for both states will be paid with the tax return you file with the state in which you are physically located. These returns have been modified to allow a simple method of reporting taxes due both states. This will minimize your record keeping and filing requirements.

One remittance

You will make one payment of the total tax due both states and include it with the return you file with the state in which you are located. The tax due each state will be distributed for you.

One sales and use tax audit

Audits, when necessary, will be coordinated by the state in which you are located, allowing one audit to satisfy the requirements of both states.

Additional benefits available

The use of the neighboring state's exemption certificates

Exempt purchases can be made more readily. You, as a participating vendor, can now issue the neighboring state's resale and other exemption certificates for border transactions covered by such certificates. Eligibility to use these certificates is governed by the laws of the state in which the purchaser takes possession of the items purchased.

Certainty as to responsibilities to both states

In recent years, courts have held that a merchant -- even if he or she has no physical location in a neighboring state -- may, under certain circumstances, be held liable for the full amount of the tax due on all goods shipped into that state. Vendors shipping over the New York/New Jersey border could face a substantial assessment, going back to the states' original imposition of sales tax laws.

A **nonparticipating** vendor's activities in the neighboring state will be subject to scrutiny in an effort to discover existing or past tax collection responsibilities. To accomplish this, a bi-state enforcement team composed of auditors from both states has been organized. When the facts support it, an assessment for prior periods will be made against the vendor. In all other cases, customers will be assessed by their state of residence for the use tax due (plus penalty and interest).

Continued customer goodwill

New York and New Jersey are sharing information that makes it difficult for taxable sale to go undetected. Customers of participating vendors pay the tax due when they make their purchases. Customers of nonparticipating vendors are subject to use tax audits, and may be assessed use tax, penalties and interest due their state of residence. Your business may suffer from the loss of customer goodwill.

Example: John Doe, a resident of New York City, purchases a living room suite from a factory outlet located in Secaucus, New Jersey. This vendor is not a participant in the New York/New Jersey tax agreement and has no locations in New York. The vendor agrees to deliver the furniture to Jane's New York City home at the purchase price of \$2,000. May this vendor collect the New York use tax?

This vendor, a nonparticipant in the bi-state agreement, is not authorized to collect the New York State or local use tax. Jane has incurred a \$165 use tax liability ($\$2,000 \times 8.25\%$). New Jersey tax authorities will furnish the information to New York to enable New York to directly assess the tax, penalties and interest due from the customer. The impact on customer goodwill could be substantial.

Requirements for Accepted Vendors

As a vendor participating in this program, you will file sales and use tax returns with one state. On border transactions, you will collect tax at the rate applicable where your customer takes possession of the items purchased and will comply with the sales and use tax laws of both New York and New Jersey.

Example: *Jane Doe, a resident of New York City, purchases furniture from a factory outlet located in Flemington, New Jersey. The vendor is a participant in the New York/New Jersey tax agreement and agrees to deliver the furniture to Jane's New York City home. The purchase price is \$1,800.*

The combined sales and use tax rate for New York City is 8.25%. Tax due on this transaction is \$148.50 ($\$1,800 \times 8.25\%$). The New Jersey vendor would separately state this tax on the invoice. The transaction would be reflected on the vendor's New Jersey state sales and use tax return. The New York tax collected would be remitted to New Jersey, along with any other sales and use taxes collected, and New Jersey would remit the applicable tax to New York.

How do I sign up?

To participate, you may request a registration application, DTF-24, *Application for New Jersey/New York Simplified Sales and Use Tax Reporting*, from either New York or New Jersey and submit the completed application to the state in which you are located. This registration will be reviewed by both New York and New Jersey. If accepted, you will receive the neighboring state's *Certificate of Authority*, authorizing you to collect and remit the neighboring state's use tax directly to the state in which you are located and to issue the neighboring state's resale and exemption certificates.

All necessary information will be provided to you, along with the *Certificate of Authority*.

Need more information?

If you would like to participate, you may contact either one of the agencies listed below to receive the necessary forms. If you have additional questions, please direct them to the appropriate agency listed below (e.g., if you have New York State Tax Law questions, contact the NYS Tax Department):

New York Registration Questions

NYS Tax Department
RALS Registration Section
Building 8 Room 405
W A Harriman Campus
Albany NY 12227
(518) 457-1997

New Jersey
Division of Taxation
CN-264 Cite
Trenton NJ 08646
(609) 984-0120

Non-Registration Questions

1 800 972-1233

New York State
Department of Taxation and Finance

New Jersey
Division of Taxation