



Sales Tax Advertising Issues

Did you know that certain types of advertising may cause problems for you and your customers?

We understand that vendors must continually search to find new ways to attract customers and compete in today's market. However, the New York State Sales and Use Tax Law and Regulations cannot be disregarded when designing your advertising strategies.

Be careful what you advertise

An increasing number of merchants across the state have been running advertising campaigns that are in violation of the New York State Sales and Use Tax Law. Advertisements that offer to pay all or part of a customer's sales tax liability, or to refund all or part of the sales tax, or to extend or expand a limited sales tax exemption to other products or time periods, are examples of improper advertisements. These violations could result in additional sales tax being owed by the business or its customers.

New York State Tax Law requires that a vendor **must** collect sales tax from the customer when collecting the selling price of any taxable item or service. It is illegal for a vendor to advertise or represent to the public in any manner, directly or indirectly, that tax is not considered as an element in the price to be paid by the customer. Therefore, advertisements stating that the customer will not be charged the tax, that the vendor will pay the tax for the customer, or that the tax will be refunded to the customer or applied as a credit against the customer's bill, account, or future purchases, are prohibited.

In addition, though it is not illegal to advertise or promote sales tax-free periods on sales as provided by the Tax Law, you may not make up your own tax-free periods or exempt items.

The following examples of acceptable and prohibited advertising practices for sales and use tax purposes will help you avoid improper advertising.

Example of acceptable advertising

A merchant holds a week long sale, advertising that he is offering an 8% discount. Although this discount is equal to the sales tax rate imposed in the merchant's locality, the advertisement does not suggest or imply that the tax is not being charged.

This type of advertising is acceptable.

Examples of prohibited advertising

A merchant holds a one-week "tax free" sale on sales of electronic equipment.

A merchant offers to pay the sales tax for customers on their purchases of furniture during a holiday weekend.

These types of advertising are prohibited.

Showing tax on receipts, sales slips, etc.

When a vendor gives the customer a sales slip, receipt, or other memorandum of the price, the sales tax must be separately shown. The words "tax included," or a similar phrase, do not constitute a separate statement of the tax. If the tax is not separately stated, the entire amount charged is considered the sales price of the property sold or service rendered, and is subject to tax.

A vendor must retain records of all sales to substantiate the proper collection of sales tax; a vendor who does not have adequate records may be held liable for additional tax, which could lead to the imposition of fines and penalties. In addition, invoices showing the separate statement of tax are evidence that the tax was collected from the customer and was not paid by the vendor on the customer's behalf.

Unit price method: no written receipt

Where no written receipt is given to the customer at the time of the sale, the **unit price** method is allowed for sales other than sales of gasoline and diesel fuel. The **unit price** is the total price charged, including the sales tax. The customer must be made aware that the sales tax is included in the selling price of such sales.

The vendor must visibly display a placard or sign stating that the selling price of all taxable items includes sales tax.

In addition, the vendor must distinguish between taxable and nontaxable items offered for sale. This may be done by such methods as attaching labels to merchandise to indicate taxable or nontaxable status, displaying taxable and nontaxable items separately, or having available detailed listings of taxable and nontaxable items.

If a customer requests and receives a receipt, the sales tax must be separately stated on the receipt.

Examples of acceptable receipts

The following are examples of acceptable sales receipts.

A vendor in a locality imposing a 7% sales tax issues a sales slip with no discounts:

| | |
|-------------------|-----------------|
| merchandise | \$100.00 |
| sales tax | + 7.00 |
| total | <u>\$107.00</u> |

The same vendor issues a sales slip which includes a 7% store discount:

| | |
|---------------------|-----------------|
| merchandise | \$100.00 |
| store discount | - 7.00 |
| | <u>\$ 93.00</u> |
| sales tax | + 6.51 |
| total | <u>\$ 99.51</u> |

Examples of improper receipts

The following are examples of unacceptable sales receipts.

A vendor in a locality imposing a 7% sales tax issues a sales slip which reads:

| | |
|-------------------|-----------------|
| merchandise | \$100.00 |
| tax credit | - 7.00 |
| sales tax | + 7.00 |
| total | <u>\$100.00</u> |

The same vendor issues a sales slip which reads:

| | |
|----------------------|-----------------|
| merchandise | \$100.00 |
| sales tax | + 7.00 |
| less tax allowance.. | - 7.00 |
| total | <u>\$100.00</u> |

NEED HELP?



Telephone Assistance is available from 8:30a.m. to 4:25 p.m., Monday through Friday.

For business tax information and forms, call the NYS Business Tax Information

Center at: 1 800 972-1233

For general information, call toll free: 1 800 225-5829

To order forms and publications, call toll free: 1 800 462-8100

From areas outside the U.S. and Canada, call: (518) 485-6800



Fax-on-Demand Forms -- Forms are available 24 hours a day, 7 days a week 1 800 748-3676



Internet Access - <http://www.tax.state.ny.us>



Hotline for the Hearing and Speech Impaired -

1 800 634-2110 from 8:30 a.m. to 4:15 p.m., Monday through Friday. If you do not own a TDD, 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, please call 1 800 225-5829.



Mailing Address - If you need to write, address your letter

to: NYS Tax Department
Taxpayer Assistance Bureau
W A Harriman Campus
Albany NY 12227.