

New York State and Local Sales and Use Tax

Quick Reference Guide

This guide contains general information on New York State and local sales and use taxes (sales tax). It includes a list of taxable and exempt property and services along with some basic information relating to registration, record keeping, and avoiding common errors when you file your sales tax return. For more detailed information, please visit the Tax Department's Web site at www.nystax.gov and download Publication 750, *A Guide to Sales Tax in New York State*. You can also call (518) 485-2889 (in-state callers without free long distance call 1 800 698-2909), or consult your tax advisor. In addition, the department's Web site also allows you to receive timely information concerning sales tax changes by subscribing to our e-mail subscription service.

What's taxable?

Tangible personal property is subject to sales tax unless it is specifically exempt. However, only certain enumerated services are subject to tax. Sales tax is computed by multiplying receipts from sales of taxable property or services by the applicable state and local sales tax rate. For updated state and local sales tax rates, see Publication 718, *New York State Sales and Use Tax Rates by Jurisdiction*, and the other relevant publications in the 718 series. Also, see Publication 718-F, TSB-M-06(8)S, and TSB-M-06(9)S, for special rules for the computation of sales tax on motor fuel and diesel motor fuel.

The following property and services are taxable:

- retail sales of tangible personal property;
- sales of utility and (intrastate) telecommunication services;
- sales of specified services:
 - certain information services;
 - processing, fabricating, printing or imprinting tangible personal property for a customer who furnishes the tangible personal property and does not plan to resell it;
 - maintenance, installation, service and repair of tangible personal property;
 - storage;
 - maintenance, service and repair of real property;
 - certain parking and garaging or storing of motor vehicles;
 - interior decorating and design;
 - protective and detective services; and
- sales of entertainment and/or information provided, for example, over **800** or **900** phone numbers;
- restaurant food and drink;
- hotel occupancy;
- admission charges;
- social and athletic club dues; and
- certain portion of cabaret charges.

Services subject only to the sales tax imposed by New York City:

- written or oral credit rating and reporting services;
- beautician, barbering, and hair restoring;
- tanning;
- manicure and pedicure;
- electrolysis; and
- massage services and services provided by weight control and health salons, gymnasiums, Turkish and sauna baths and similar establishments.

Which property and services are exempt from tax?

The chart on the following pages lists property and services that are generally exempt from sales tax. It also provides references to the Tax Law sections which provide the exemption, any department publications and technical memoranda (TSB-Ms) that are relevant to the exemption, and the exemption document, if required. You can obtain these publications, memoranda and documents by visiting our Web site at www.nystax.gov, or by calling (518) 457-5431 (in-state callers without free long distance call 1 800 462-8100).

In general, if the sale of property or a service to all purchasers is exempt from sales tax, the vendor is not required to obtain an exemption certificate from the purchaser. Examples are food, drugs, medicine, clothing and footwear sold for less than \$110, and veterinary services. If property or a service 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, the

vendor should collect sales tax unless it receives a properly completed exemption document (e.g., Form ST-119.1, *Exempt Organization Exempt Purchase Certificate*, ST-120, *Resale Certificate*, or ST-121, *Exempt Use Certificate*) from the purchaser within 90 days of the date the property was delivered or the service was rendered. Sales to New York State, its political subdivisions and to the federal government are also exempt from sales tax. For these sales, the vendor should receive a government purchase order or other suitable documentation, such as Form ST-129, *Exemption Certificate - Tax on occupancy of hotel rooms*.

| Specific exemption | Publication/TSB-M | Tax Law section | Exemption document required |
|--|---|------------------------------|------------------------------------|
| Purchases by vendors of certain property or services that are intended for resale ¹ | | 1101(b)(4), 1105(b), 1105(c) | ST-120 |
| Certain alternative fuels | TSB-M-06(10)S | 1102(a) | ST-121 |
| Service of building or installing a capital improvement | Pub 862 | 1105(c)(3)(iii), 1105(c)(5) | ST-124 |
| Receipts paid to a homeowner's association by its members for parking services | TSB-M-97(12)S, TSB-M-01(3)S | 1105(c)(6), 1212-A(a)(1) | none |
| Laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining | TSB-M-02(4)S | 1105(c)(3)(ii) | none |
| Admissions to live circus performances | TSB-M-97(12)S | 1105(f)(1), 1116(d)(2)(B) | none |
| Certain residential energy sources and services ² | Pub 718-R | 1105-A | TP-385 |
| Certain food and drinks | Pub 79, Pub 880; TSB-M-86(18)S, TSB-M-87(12)S | 1115(a)(1), 1115(k) | none |
| Water delivered through mains or pipes | | 1115(a)(2) | none |
| Drugs, medicines, medical equipment and services thereon and medical supplies | Pub 822, Pub 840 | 1115(a)(3), 1115(g) | none |
| Prosthetic aids and devices and services thereon | Pub 822, Pub 840; TSB-M-82(9)S, TSB-M-06(5)S | 1115(a)(4), 1115(g) | none |
| Newspapers and qualified periodicals | TSB-M-79(3)S | 1115(a)(5) | none |
| Farming/commercial horse boarding property/services | TSB-M-00(8)S | 1115(a)(6), 1115(c)(2) | ST-125 |
| Sales by funeral homes | | 1115(a)(7) | none |
| Commercial vessels | TSB-M-88(10)S, TSB-M-96(14)S | 1115(a)(8) | ST-121 |
| Commercial aircraft, certain related property and fuel used therein | TSB-M-80(4)S | 1115(a)(9), 1115(a)(21) | ST-121 |
| Property and utilities used in research and development | Pub 852 | 1115(a)(10), 1115(b)(ii) | ST-121 |
| U.S. and N.Y. official flags | TSB-M-01(5)S | 1115(a)(11) | none |
| Certain military decorations | TSB-M-06(15)S | 1115(a)(11-a) | ST-121 |
| Production machinery/equipment/utilities | Pub 852; TSB-M-82(7)S, TSB-M-82(8)S, TSB-M-82(18)S, TSB-M-82(25)S, TSB-M-89(19)S, TSB-M-00(9)S | 1115(a)(12), 1115(c)(1) | ST-121 |

¹ Special rules apply to contractors who provide maintenance, services, and repairs to real property. For more information, see Publication 862, *Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property*.

² This exemption does not apply to locally imposed sales and use taxes unless the county or city imposing those taxes elected the exemption. Also, certain school districts impose a sales tax on specified residential energy sources and services. See Publication 718-R, *Local Sales and Use Tax Rates on Residential Energy Sources and Services*.

| Specific exemption | Publication/TSB-M | Tax Law section | Exemption document required |
|---|--|--------------------------------------|-----------------------------|
| Certain property used in connection with telecommunications and Internet access | TSB-M-00(6)S | 1115(a)(12-a) | ST-121 |
| Certain items sold through coin operated vending machines | TSB-M-83(33)S, TSB-M-97(12)S | 1105(d)(i)(3), 1115(a)(13),(13-a) | none |
| Coin-operated luggage carts | TSB-M-97(12)S | 1115(a)(13-b) | none |
| Certain intrafamily sales of motor vehicles | | 1115(a)(14) | DTF-802 |
| Certain property sold to contractors to be installed in real property owned by exempt entities | TSB-M-78(10)S | 1115(a)(15),(16) | ST-120.1 |
| Certain property sold by a contractor to a person for whom a capital improvement project is being performed | Pub 862 | 1101(b)(4)(i), 1115(a)(17) | ST-124 |
| Certain sales conducted from a residence, e.g., garage sales | TSB-M-80(9)S | 1115(a)(18) | none |
| Packaging materials related to property for sale | Pub 852; TSB-M-82(7)S | 1115(a)(19) | ST-121 |
| Milk crates purchased by a dairy farmer or New York State licensed milk distributor | TSB-M-06(16)S | 1115(a)(19-a) | ST-121 |
| Shopping papers and printing services related thereto | TSB-M-92(5)S, TSB-M-96(7)S | 1115(a)(20), 1115(i) | ST-121 |
| Certain trucks, tractors, tractor-trailers | TSB-M-81(25)S, TSB-M-87(16)S, TSB-M-87(16.1)S | 1115(a)(22),(26) | ST-121.1 |
| Used mobile homes | TSB-M-83(24)S, TSB-M-83(24.1)S | 1115(a)(23) | none |
| Certain fishing vessels | TSB-M-85(17)S, TSB-M-86(1)S | 1115(a)(24) | ST-121 |
| Natural gas used for consumption by owners of a gas well on their property | TSB-M-85(15)S | 1115(a)(25) | none |
| Precious metal bullion sold for investment | TSB-M-89(20)S, TSB-M-89(20.1)S, TSB-M-95(9)S | 1115(a)(27) | none |
| Customized computer software transferred to a related entity | TSB-M-93(3)S | 1115(a)(28) | none |
| Certain race horses and related training and maintenance services | TSB-M-80(12)S, TSB-M-95(6)S | 1115(a)(29), 1115(m) | ST-126 |
| Clothing and footwear and items used to repair exempt clothing sold for less than \$110 ³ | Pub 718-C; TSB-M-06(6)S, TSB-M-06(6.1)S, TSB-M-06(6.2)S | 1115(a)(30) | none |
| Copies sold through coin operated photocopying machines at fifty cents or less | TSB-M-97(12)S | 1115(a)(31) | none |
| Enhanced emissions inspection equipment | TSB-M-97(8)S | 1115(a)(31) | ST-121 |
| Certain public transportation vehicles (omnibuses) and related services | TSB-M-97(12)S | 1115(a)(32), 1115(u) | ST-121.1 |
| Wine furnished at a wine tasting | TSB-M-97(12)S | 1115(a)(33) | none |
| College textbooks | TSB-M-98(4)S | 1115(a)(34) | ST-121.4 |
| Computer system hardware used to develop software and developing Web sites | TSB-M-98(5)S | 1115(a)(35) | ST-121.3 |

³ This exemption does not apply to locally imposed sales and use taxes unless the county or city imposing those taxes elected the exemption. See Publication 718-C, *Local Sales and Use Tax Rates on Clothing and Footwear*.

| Specific exemption | Publication/TSB-M | Tax Law section | Exemption document required |
|---|--|------------------------------------|-----------------------------|
| Certain tools and supplies related to gas or oil production | TSB-M-98(13)S | 1115(a)(36) | ST-121 |
| Certain Internet data center equipment and related services | TSB-M-00(7)S | 1115(a)(37), 1115(y) | ST-121.5 |
| Certain broadcasting and film production equipment and related services | Pub 28, Pub 825; TSB-M-00(6)S | 1115(a)(38),(39), 1115(aa),(bb) | ST-121 |
| Pollution abatement equipment | | 1115(a)(40) | ST-121 |
| Certain marine cargo facility machinery and equipment | TSB-M-05(14)S | 1115(a)(41) | ST-121 |
| Certain ferry boats, and certain property purchased or used to operate those ferry boats | TSB-M-08(11)S | 1115(a)(43) | ST-121 |
| Telephone and telegraph services used in news gathering | | 1115(b)(i) | none |
| Utilities and utility services produced by cogeneration facilities operated by cooperative corporations | TSB-M-06(3)S | 1115(b)(iii) | ST-121 |
| Certain services on property delivered outside NYS | | 1115(d) | none |
| Coin operated telephone calls for 25 cents or less | TSB-M-98(9)S | 1115(e) | none |
| Veterinary services | Pub 851; TSB-M-79(6)S | 1115(f) | none |
| Sales by railroads in reorganization | | 1115(h) | none |
| Certain property donated to exempt organizations by the manufacturer of the property | TSB-M-86(11)S, TSB-M-87(14)S | 1115(l) | none |
| Qualifying promotional materials and related services | Pub 831; TSB-M-92(4)S, TSB-M-92(4.1)S, TSB-M-97(6)S | 1115(n) | ST-121.2 |
| Services performed on computer software | TSB-M-93(3)S | 1115(o) | none |
| Services performed to a qualifying barge | | 1115(q) | ST-121 |
| Medical emergency alarm call services | TSB-M-94(3)S | 1115(r) | ST-121 |
| Property and services related to guide dogs | TSB-M-95(10)S | 1115(s) | ST-860 |
| Certain coin-operated car wash services | TSB-M-05(15)S | 1115(t) | none |
| Internet access services | TSB-M-97(1)S | 1115(v) | ST-121 |
| Certain food and drink sold by a senior citizen housing community to its residents and their guests | TSB-M-01(4)S | 1115(w) | none |
| Property used in connection with certain theater productions | TSB-M-99(4)S | 1115(x) | ST-121.9 |
| Certain purchases by qualified empire zone enterprises | TSB-M-01(1)S, TSB-M-02(5)S, TSB-M-05(16)S | 1115(z) | ST-121.6 |
| Property and services related to the maintenance of general aviation aircraft | TSB-M-04(8)S | 1115(dd) | ST-121 |
| Residential solar energy systems equipment ⁴ | TSB-M-05(11)S | 1115(ee) | ST-121 |
| Property used to furnish leased premises in designated areas of lower Manhattan | TSB-M-05(12)S | 1115(ee) | ST-121 |

⁴ This exemption does not apply to locally imposed sales and use taxes unless the county or city imposing those taxes elected the exemption. See Publication 718-S, *Local Sales and Use Tax Rates on Sales and Installations of Residential Solar Energy Systems Equipment*.

| Specific exemption | Publication/TSB-M | Tax Law section | Exemption document required |
|---|--------------------------------|-----------------|-----------------------------|
| Gift shop sales at a veteran's home | TSB-M-06(15)S | 1115(ff) | none |
| 75% of the admission charge to a qualifying place of amusement | TSB-M-04(7)S, TSB-M-06(12)S | 1122 | none |
| Certain portion of the admission charge to attend a dramatic or musical performance at a roof garden, cabaret, or similar place | TSB-M-06(15)S | 1123 | none |

Who is required to register for a sales tax *Certificate of Authority*?

You must register for sales tax purposes with the Tax Department and have a valid *Certificate of Authority* to sell tangible personal property or certain taxable services, operate a hotel or motel, or receive amusement charges in New York State. You must also register for sales tax purposes to issue or accept most New York State sales tax exemption documents or if you are acquiring all or part of the assets of an existing business. If you are an out-of-state lessor of tangible personal property and your lessee lives in New York State or moves to New York State and brings the leased property into New York State for personal use or for use in any employment, trade, business, or profession, you must register for sales tax purposes within 30 days after your property comes into New York State. For more information regarding specific sales tax registration requirements, see Publication 750, *A Guide to Sales Tax in New York State*.

To obtain a certificate of authority to collect sales tax, fill out Form DTF-17, *Application to Register for a Sales Tax Certificate of Authority*. This form is available on the Tax Department's Web site at www.nystax.gov. You may also file an online application by visiting the Web site www.nys-permits.org.

What records do I have to keep?

You must keep the following records for a minimum of three years from the date the return was filed or was due, whichever is later. Records may be kept in electronic format.

- records of all sales, including:
 - amount paid, charged, or due on the transaction;
 - sales tax due, if any;
 - a copy of any written receipt or other evidence of sale that you give to a purchaser; otherwise, a daily record of all cash and credit sales; and
 - the name of the jurisdiction where the sale was made, or where delivery was made⁵;
- an exemption certificate, where required, associated with each exempt sale you make; and
- records of all business purchases. You should pay any use tax you owe on your purchases when you file your sales and use tax return. (See Publication 774, *Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department Questions and Answers*, regarding information about the use tax.)

Common errors to watch for

To avoid penalties and interest, please be sure to file your sales tax return and pay any sales tax due on time (generally not later than 20 days after the end of the period to which it relates). Also, watch for these common errors.

- failing to file a sales tax return even if you **did not have any taxable sales or business purchases** subject to tax during the filing period;
- failing to change to **monthly filing** if the total amount of your taxable sales was \$300,000 or more in any of the preceding four quarters, and to notify the Tax Department thereof. (See Publication 750);
- failing to use proper **jurisdiction codes**; and
- failing to keep adequate records.

⁵ For vendors who may be required to collect sales tax for more than one taxing jurisdiction, the Tax Department has a service on its Web site which indicates, for most addresses in the State, the taxing jurisdiction and correct sales tax rate and jurisdictional reporting code. Vendors can access this service at www.nystax.gov.