

## 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](http://www.nystax.gov) and download Publication 750, *A Guide to Sales Tax in New York State*, 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 the Department's 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 goods 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
- sales of entertainment and/or information provided, for example, over **800** or **900** numbers
- Restaurant food and drink
- Hotel occupancy
- Admission charges
- Social and athletic club dues
- 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, hair restoring
- tanning
- manicure and pedicure
- electrolysis
- massage services and services provided by weight control and health salons, gymnasiums, Turkish and sauna baths and similar establishments

### Who and what are exempt from tax?

The chart on the following pages lists property and services which are generally exempt from sales tax. It also provides references to the Tax Law sections which provide the exemption, any Department publications and Technical Services Bureau Memoranda (TSB-M) that are relevant to the exemption, and the exemption document, if required. You can obtain these publications, memoranda and documents by visiting the Department Web site at [www.nystax.gov](http://www.nystax.gov) or by calling 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 substantiate the exempt nature of the sale by receiving 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*, Form 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		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-01(3)S, TSB-M-97(12)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 <sup>1</sup>	Pub 718-R	1105-A	TP-385
Certain food and drinks	Pub 79, 880,/TSB-M-86(18)S, 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, 840	1115(a)(3), 1115(g)	none
Prosthetic aids and devices and services thereon	Pub 822, 840,/ TSB-M-82(9)S, 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 horseboarding 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, 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, M82-(8)S, M-82(18)S, M-82(25)S, M-89(19)S, M-00(9)S	1115(a)(12), 1115(c)(1)	ST-121
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,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

<sup>1</sup> 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 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 <sup>2</sup>	TSB-M-06(16)S	1115(a)(19-a)	ST-121
Shopping papers and printing services related thereto	TSB-M-92(5)S, M-96(7)S,	1115(a)(20), 1115(i)	ST-121
Certain trucks, tractors, tractor-trailers	TSB-M-81(25)S, M-87(16),(16.1)S,	1115(a)(22),(26)	ST-121.1
Used mobile homes	TSB-M-83(24)S,(24.1)S	1115(a)(23)	none
Certain fishing vessels	TSB-M-85(17)S, 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,(20.1)S, 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, 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 <sup>3</sup>	TSB-M-06(6)S, 06(6.1)S,(6.2)S Pub 718-C	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 websites	TSB-M-98(5)S	1115(a)(35)	ST-121.3
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/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

<sup>2</sup> Effective September 1, 2007.

<sup>3</sup> 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
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-87(14)S, M-86(11)S	1115(l)	none
Qualifying promotional materials and related services	Pub 831/TSB-M-92(4)S, (4.1)S, 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, M-02(5)S, 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 <sup>4</sup>	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
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-06(12)S TSB-M-04(7)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

<sup>4</sup> 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.

## 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 website at [www.nystax.gov](http://www.nystax.gov). You may also file an online application by visiting the Governor's website at [www.nys-permits.org](http://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
  - jurisdiction where the sale was made, or where delivery was made<sup>5</sup>
- An exemption certificate, where required, associated with each exempt sale you make
- Records of purchases you make using exemption certificates
- 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.

## 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**.
- Failing to keep adequate records.

<sup>5</sup> 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](http://www.nystax.gov).

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