

Information on paying sales and use taxes on your income tax return

When do you owe sales or use tax?

You owe state and local sales or use tax if you:

- purchase property or a service which is delivered to you in New York State without payment of New York State and local tax to the seller, such as through the Internet, by catalog, from television shopping channels, or on an Indian reservation.

You may also owe state and local sales or use tax if you are a resident of New York State at the time of purchase and you purchase any of the following outside the state:

- property you bring into New York State for use here;
- a service performed on property outside New York State and you bring that property into New York State for use here; or
- a service (such as an information service) you bring into New York State for use here.

(You may be eligible for a credit for sales or use tax paid to another state. See *Instructions for Worksheets 1, 2, and 3*, Column D, on page 38.)

However, you are not required to pay state or local sales or use tax on any property or service that you bring into New York State which you purchased outside of the state before you became a resident of New York State.

You may owe an additional **local** tax if you are a resident of a locality (county or city) at the time of purchase and you:

- bring property into that locality which you purchased in another locality in New York State that has a lower tax rate;
- bring property into that locality on which you had a taxable service performed in another locality in New York State that has a lower tax rate; or
- bring a service (such as an information service) into that locality which you purchased in another locality in New York State that has a lower tax rate.

However, you are not required to pay any additional local tax on any property or service that you bring into a locality in New York State that you purchased outside that locality before you became a resident of that locality.

Note: For purposes of these sales and use tax instructions, the word *tax* will be used to refer to either the sales tax or the use tax, or both.

For sales and use tax purposes, the definition of *resident* includes persons who may not be considered residents for personal income tax purposes. For example, persons maintaining a permanent place of abode in New York who do not

spend more than 183 days a year in the state, college students, and military personnel may all be residents for sales and use tax purposes even if they are not residents for income tax purposes. For sales and use tax purposes, an individual is a resident of the state and of any locality in which he or she maintains a permanent place of abode. A *permanent place of abode* is a dwelling place maintained by a person, or by another for that person to use, whether or not owned by such person, on other than a temporary or transient basis. The dwelling may be a home, apartment or flat; a room including a room at a hotel, motel, boarding house, or club; a room at a residence hall operated by an educational, charitable or other institution; housing provided by the armed forces of the United States, whether such housing is located on or off a military base or reservation; or a trailer, mobile home, houseboat, or any other premises. This includes second homes. Therefore, you can be a resident of more than one locality and state for sales and use tax purposes.

An individual doing business in New York State is a resident for sales and use tax purposes of the state and of any county or city in which the individual is doing business, with respect to purchases of taxable property or services used in the business. Therefore, if an individual is engaged in business in New York State but has no permanent place of abode in New York State, the individual will owe use tax only on taxable purchases made with respect to the business operated in New York.

What tangible personal property and services are subject to sales and use taxes?

Most tangible personal property is subject to tax. Some examples are: cigarettes and other tobacco products; alcohol; candy; clothing; books; electronic equipment; furniture; collectibles (for example, stamps, coins, etc., bought for collections); works of art; off-the-shelf computer software; and, generally, garage sale items costing more than \$600. Some examples of exempt items are: prescription and nonprescription drugs and medicines used for humans; certain medical equipment; newspapers; periodicals; most food items; flags of the United States of America or the state of New York; Indian arts and crafts when purchased on an Indian reservation; used mobile homes; and college textbooks.

Only certain services are subject to tax. Taxable services include maintaining, servicing and repairing tangible personal property and real property. Some examples are auto repair, appliance service, house repairs, lawn maintenance, and information

services. Some examples of exempt services are dry cleaning, veterinary, legal, and medical services.

Reporting and paying sales and use taxes

An individual must report any sales or use tax for 2003 on his or her personal income tax return for 2003. However, if the individual is registered, or required to be registered, for sales tax purposes, all sales and use taxes owed with respect to business purchases must be reported and paid with the person's sales tax returns.

If you are requesting an extension of time to **file** your personal income tax return and you owe sales or use tax, you must pay any sales or use tax you owe at the time you request the extension. See Form IT-370 for more information.

If you receive an automatic extension of time to **pay** your New York State personal income tax (e.g., you are in a foreign country), your sales or use tax is due when your New York State personal income tax return is due.

You may report and pay your sales or use tax liability on your personal income tax return for:

- your personal purchases;
- purchases related to your royalty activities or rental real estate activities reported in Part I of federal Schedule E; and
- purchases related to your Schedule C, C-EZ, or F business (not otherwise eligible for exemption) unless the business is, or is required to be, registered for sales tax purposes.

If you are married and file a joint return, you may include your spouse's sales or use tax liability for:

- your spouse's purchases;
- purchases related to your spouse's royalty activities or rental real estate activities reported in Part I of federal Schedule E; and
- purchases related to your spouse's Schedule C, C-EZ, or F business (not otherwise eligible for exemption) unless the business is, or is required to be, registered for sales tax purposes.

An individual who is not filing an income tax return but who owes sales or use tax for 2003 must pay the sales or use tax by filing Form ST-140 by April 15, 2004. However, if the individual is registered, or required to be registered, for sales tax purposes, all sales and use taxes owed with respect to business purchases must be reported and paid with the person's periodic sales and use tax return.

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Any unpaid sales or use tax on a motor vehicle, trailer, all-terrain vehicle, vessel or snowmobile that must be registered or titled by the New York State Department of Motor Vehicles is collected at the time of registration. Therefore, do not report or pay the sales or use tax on these items on your personal income tax return.

What happens if I don't pay the sales or use tax due?

The Tax Department has the authority to issue an assessment for, and impose penalty and interest on, unpaid sales or use tax. The department conducts both routine and special audits that produce this type of

information. In addition, the U.S. Customs Service provides the department with information from customs declarations filed by New York State residents returning from overseas travel. The department also has agreements with several other states to provide information to the department when an audit is done on a merchant in one of the other states, and sales to New York State residents are discovered.

Computing sales or use tax

To compute the amount of tax you owe, see *How to calculate and report your sales and use tax liability on Form IT-201*, beginning on page 36.


If you don't owe any sales or use tax, you **must** enter "0" on the sales or use tax line of your personal income tax return.

For more information, see Publication 774, *Purchaser's Obligation to Pay Sales and Use Taxes Directly to the Tax Department*.

For more information on taxable and exempt goods and services, see Publication 750, *A Guide to Sales Tax in New York State*.

Electronic Services

We invite you to visit our Web site at www.nystax.gov to learn about our growing list of *Electronic Services*.

- E-file your income tax return. 
- Determine which income tax form to file.
- Pay your income taxes by credit card and electronic funds withdrawal.
- Apply for an income tax installment payment agreement.
- Apply for an automatic extension of time to file your return.
- Check the status of your income tax refund.
- Review your estimated tax account balance.
- Visit the Individual Answer Center to find answers to all your tax questions.
- View and pay open assessments.
- Use the penalty and interest calculator.
- Sign up for free e-mail notifications through our subscription service.

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