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Purchases and Sales by Governmental Entities

Tax Bulletin ST-700 (TB-ST-700)

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Issue Date: November 2, 2010

Introduction

This bulletin explains how sales and use taxes apply to purchases and sales by New York and United States governmental entities.

New York governmental entities include the state of New York and any of its agencies, instrumentalities, public corporations (including public corporations created by agreement or compact with another state), political subdivisions.

Agencies and instrumentalities include any authority, commission, or independent board created by an act of the New York State Legislature for a public purpose. Examples of agencies and instrumentalities include:

- New York State Department of Taxation and Finance
- New York State Department of Education
- Association of Fire Districts of New York State

Public corporations include municipal, district, or public benefit corporations chartered by the New York State Legislature for a public purpose or in accordance with an agreement or compact with another state. Examples of public corporations include:

- Empire State Development Corporation
- Lower Manhattan Development Corporation
- New York State Canal Corporation
- Industrial Development Agencies and Authorities
- Port Authority of New York and New Jersey

Political subdivisions include counties, cities, towns, villages, and school districts.

The United States of America and its agencies and instrumentalities (also referred to as *United States governmental entities*) are also exempt from paying New York State sales tax on their purchases. Examples of tax-exempt United States governmental entities include:

- United States Department of State
- Internal Revenue Service
- Federal credit unions

Other states of the United States and their agencies and political subdivisions do not qualify for sales tax exemption. Examples of governmental entities that do not qualify for exemption include:

- the state of Vermont
- the city of Boston
- the borough of Saddle River, New Jersey

Purchases by governmental entities

Generally, a New York or United States governmental entity is exempt from payment of sales tax on its purchases when the entity is the purchaser, user, or consumer of tangible personal property or services or when an employee of the entity, on official business, is the occupant of a hotel room or a patron at a place of amusement, club, or similar place.

To claim exemption from sales tax, the governmental entity must provide the seller with a governmental purchase order or an appropriate exemption document. **Please note:** A governmental entity may not use Form ST-119.1, *Exempt Organization Exempt Purchase Certificate*, to make tax-exempt purchases.

A governmental entity that needs to provide confirmation to sellers that the organization is exempt from payment of sales tax may request a governmental entity letter from the Sales Tax Exempt Organizations Unit by calling (518) 457-2782. The letter identifies the organization as a governmental entity and states that it is exempt from the payment of sales tax on its purchases. It further states that the seller needs only a governmental purchase order, or other evidence that the governmental entity is the purchaser, in order for the seller to not collect tax.

An employee of a governmental entity who is on official business may purchase hotel occupancy exempt from tax (including the \$1.50 hotel unit fee in New York City) by providing the operator of the hotel or motel with a properly completed Form ST-129, *Exemption Certificate—Tax on Occupancy of Hotel Rooms*. **Note:** Form ST-129 cannot be used to claim exemption from locally imposed and administered hotel occupancy taxes, also known as local bed taxes. (See Publication 848, *A Guide to Sales Tax for Hotel and Motel Operators*, for more information.)

Employees of New York State governmental entities, while in the performance of their official duties, may make tax-exempt purchases of property or services (but not food and drink for personal consumption) by presenting vendors with a properly completed Form AC-946, *Tax Exemption Certificate*.

A New York State governmental entity, if authorized by applicable law, may also appoint an agent to make tax-exempt purchases on its behalf provided certain requirements are met. For more information about purchases by agents of New York governmental entities, see Publication 765, *Sales and Fuel Excise Tax Information for Properly Appointed Agents of New York Governmental Entities*.

See Tax Bulletin [Exemption Certificates for Sales Tax](#) (TB-ST-240) for more information about exemption documents. See Tax Bulletin [Record-Keeping Requirements for Sales Tax Vendors](#) (TB-ST-770) for more information about keeping records of these exempt transactions.

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Last Modified: November 17, 2010

Sales by governmental entities

Sales by New York and United States governmental entities of tangible personal property or services that are **not ordinarily sold** by private persons are exempt from sales and use tax.

Example: A county clerk's office sells tax maps and certified copies of various documents only available through the county clerk's office. The sales of these items are not subject to tax because the items are not ordinarily sold by private persons.

Example: A governmental entity sells evergreen seedlings in bundles of 1,000 to qualified landowners with the stipulation that once the evergreens are planted, they may not be removed with roots attached, nor may they be planted for ornamental purposes. The sale of these seedlings is not taxable because sales of this kind are not ordinarily made by private persons.

Example: The U.S. Government Printing Office (GPO) sells federal publications, records, and other documents. These documents are only available through the GPO. The sales of these documents are not subject to tax because the documents are not property ordinarily sold by private persons.

Sales by New York and United States governmental entities of tangible personal property or services that are **ordinarily sold** by

are sales of property ordinarily sold by private persons.

Example: A New York State agency sells motor vehicles. Sales of motor vehicles are not subject to tax because motor vehicles are ordinarily sold by private persons.

Example: A New York municipality sells leaf/recycling bags to its residents. Sales of the bags are subject to tax because leaf bags are ordinarily sold by private persons.

Example: A New York public high school sells books, school supplies, small gift items and candy at the school bookstore. Sales of these items are subject to sales tax because such items are ordinarily sold by private persons.

Example: A governmental entity operates a hotel that is open to the general public. The charge for occupancy is taxable.

Example: A governmental agency operates a restaurant. The charges for the food and drink are taxable.

Example: The National Park Service sells souvenirs at the parks and historic sites it operates in New York State. The sales are subject to tax because souvenirs are property ordinarily sold by private persons.

Charges for the service of trash removal are exempt from sales tax when the service is performed by a New York State municipal corporation, other than a city of one million or more, or when the services are provided by a private trash removal company on behalf of a municipal corporation in accordance with an agreement between the two.

Example: A municipality provides a trash removal service for its residents and charges \$20.00 per month for the service. This charge is not taxable.

Example: A trash removal company has an agreement with a municipality for the removal of residents' trash on behalf of the municipality. Under the terms of the agreement, the trash removal company bills the residents directly for the service. The charge for this service is not taxable.

Charges by certain New York governmental entities for parking services are also exempt from sales tax. Charges for parking in facilities owned and operated by the following entities are exempt from the combined state and local sales taxes (but not from the additional 8% New York City tax imposed on parking, garaging, or storing motor vehicles in Manhattan):

- municipal corporations (counties, cities, towns, villages, and school districts) or any agency or instrumentality of these municipal corporations;
- district corporations (for example, fire districts or water districts) or any agency or instrumentality of these district corporations; and
- public benefit corporations (other than public benefit corporations that have been created by interstate compact or public benefit corporations at least half of whose members are appointed by the Governor).

Charges for parking in facilities that are owned and operated by New York City are generally exempt from sales tax (see [TSB-M-96\(12\)S, Sales of Parking by Local Municipal Facilities Exempt From Sales Tax](#), for more information, including when these charges are exempt from the additional 8% sales tax imposed in Manhattan). This includes facilities owned and operated by:

- any agency or instrumentality of New York City; and
- a public corporation the majority of whose members are appointed by the Mayor of New York City, the New York City Council, or both.

If a New York or United States governmental entity fails to collect sales tax on a taxable transaction, the purchaser must pay the tax directly to the Department of Taxation and Finance. See Tax Bulletin [Use Tax for Businesses](#) (TB-ST-910) and Tax Bulletin [Use Tax for Individuals \(including Estates and Trusts\)](#) (TB-ST-913) for more information about paying use tax.

Example: The U.S. Postal Service charges \$15 for passport photographs. It does not collect sales tax on these sales, even though the sale of passport photographs is subject to tax. Customers who purchase the photographs without paying sales tax must pay the tax due directly to the Tax Department.

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin.

References and other useful information

Tax Law: Sections 1116(a)(1) and 1116(a)(2)

Regulations: Sections 529.1; 529.2; and 529.3

Publications:

Publication 765, Sales and Fuel Excise Tax Information for Properly Appointed Agents of New York Governmental Entities
Publication 843, A Guide to Sales Tax in New York State for Exempt Organizations
Publication 848, A Guide to Sales Tax for Hotel and Motel Operators

Memoranda:

TSB-M-96(12)S, Sales of Parking by Local Municipal Facilities Exempt From Sales Tax

Bulletins:

Exemption Certificates for Sales Tax (TB-ST-240)
Record-Keeping Requirements for Sales Tax Vendors (TB-ST-770)
Use Tax for Businesses (TB-ST-910)
Use Tax for Individuals (including Estates and Trusts) (TB-ST-913)