

New York Sales & Use Tax Guide

A tax professional's essential guide to calculating, reporting and paying Sales & Use Tax in New York

AN INTRODUCTION TO SALES AND USE TAX

Sales and Use Taxes in New York date back to the Great Depression, when they were introduced in 1933 to help the state generate revenue during economic hardship. Initially, the sales tax applied only to tangible personal property sold at retail, making New York one of the earlier states to adopt such a tax.

As the economy evolved, so did the tax system. The scope of the sales tax gradually expanded to include services, digital goods, and other taxable items. Shortly after, the use tax was introduced to address revenue losses from out-of-state purchases, ensuring that New York residents paid tax on items consumed within the state, even if bought elsewhere.

Significant reforms have been made to adapt to modern commerce, particularly with the rise of online shopping. This includes requiring online retailers to collect and remit sales taxes on purchases made by New York residents.

Today, New York's Sales and Use Tax is a critical source of revenue, supporting public services, infrastructure, and other state-funded programs. It remains a complex and essential component of the state's financial system, reflecting its ongoing adaptation to economic changes.



SALES AND USE TAX RATES

State

4% flat rate of across the entire state



Local

Varies by locality and can range from 3% - 4.875%



TAX RETURNS

In New York, businesses registered for sales tax purposes are required to file Sales and Use Tax returns. The frequency of filing depends on the volume of sales. Businesses with higher sales volumes may need to file part-quarterly (monthly), while others may file quarterly or annually. Regardless of the frequency, it's crucial to file by the due date, even if no taxable sales or purchases were made during the reporting period.

For businesses with significant taxable receipts or liabilities, the PromptTax program is mandatory. This program applies to businesses with taxable receipts over \$500,000 or those with annual liabilities for prepaid sales tax on motor fuel and diesel motor fuel exceeding \$5 million. The PromptTax program ensures timely and accurate tax payments.

Most taxpayers are required to file their returns electronically using the Sales Tax Web File system. This system simplifies the filing process and helps ensure compliance with state regulations. For more detailed information and resources, the New York State Department of Taxation and Finance's website is a valuable resource.



SALES TAX EXEMPTIONS

Drugs & Medicine

Newspaper & Magazines

Packaged food

Prosthetic aids

Diapers

Nexus

Any business that has a significant connection with New York will be required to collect Sales & Use Tax in the state. This concept is known as nexus.

Previously, a state could only prove nexus and require Sales Tax to be collected if a company had a physical presence within its borders.

However, in 2018, this changed and states are now free to mandate Sales Tax collection from businesses based on economic and virtual connections to an area.

If your organisation has an office or employees in New York or simply makes sales to consumers in the state, nexus will exist and you must collect tax.

Registration

If a nexus is established, your business will be required to register for Sales & Use Tax in New York.

This can be achieved by applying for a New York seller's permit to the New York Department of Taxation.

You'll need to provide certain details, including:

- 1 Business name, address and contact
- 2 Federal EIN number
- 3 Start date of business activities
- 4 Projected monthly sales
- 5 Products to be sold

Tax Holidays

Tax holidays in New York are specific periods when certain taxes are temporarily reduced or eliminated to encourage consumer spending and stimulate economic activity. These holidays are often targeted at specific goods or services, such as back-to-school supplies, energy-efficient appliances, or emergency preparedness items.

One of the most notable tax holidays in New York is the back-to-school sales tax holiday. During this period, which typically occurs in late summer, parents and students can purchase clothing, footwear, and school supplies without paying state sales tax.

Another example is the energy-efficient appliance tax holiday. This event encourages consumers to purchase energy-efficient appliances by offering a temporary exemption from state sales tax. The goal is to promote environmentally friendly practices and help consumers save on their energy bills in the long run.

These tax holidays are part of broader efforts by the state government to support economic growth and provide financial relief to residents. They are usually well-publicised in advance, allowing consumers to plan their purchases accordingly and take full advantage of the tax savings.

Compliance

Filing

Filing Sales and Use Tax returns can be done online through the Sales Tax Web File system. The state mandates electronic filing for most taxpayers. Instructions and resources are available on the New York State Department of Taxation and Finance website to assist in meeting their filing obligations.

Deadlines

Businesses must file Sales and Use Tax returns either quarterly, monthly, or annually, depending on their sales volume. Quarterly returns are due 20 days after the end of each quarter, while annual returns are due by March 20th each year. It's crucial for businesses to adhere to these deadlines to avoid penalties and ensure compliance with state tax laws.

Penalties

Late filing can result in a penalty of 10% of the tax due for the first month, plus 1% for each additional month, up to a maximum of 30%. If a business fails to file a return, the penalty can be the greater of \$50 or 100% of the tax due. Willful failure to collect or remit sales tax can lead to criminal charges, including fines and potential jail time.

Did you know...

In New York, whole bagels are generally not subject to sales tax, however sliced bagels, are considered "sandwiches" and are subject to sales tax.

This means that if you buy a whole bagel and slice it yourself at home, you're tax-free. But if you buy a pre-sliced bagel from a shop, you're paying extra.

The rationale behind this tax is that a sliced bagel is considered a prepared food item, similar to a sandwich with butter or spread. This classification places it under the category of taxable food items.