

New York/New Jersey Cooperative Interstate Tax Program

Publication ANJ-14

Introduction

An interstate sales tax agreement allows participating New York and New Jersey vendors selling taxable goods and services across state lines to collect the neighboring state's sales tax. The agreement also permits the states to actively exchange information on sales and use tax and corporate taxes.

The payment of New Jersey and New York use tax on sales across state lines is often avoided. This results in substantial losses of revenue for both states. The agreement provides for the joint administration of both states' sales and use tax laws. Both state tax agencies share information on sales across state lines to help collect the tax that is due. This helps eliminate the unfair competitive advantage that some out-of-state merchants have over in-state vendors when dealing with in-state customers.

Use tax

Use tax is a tax on the use of taxable items or services where sales tax has not been paid. Within each state, sales tax and use tax are complementary taxes and are assessed at the same rate. Use tax is payable to the state in which the item is used, at that state's rate.

Example: John Doe, a resident of Newark, New Jersey, goes to New York City to purchase a console television from a discount store whose only outlets are in New York. The purchase price is \$800. The vendor agrees to ship the television set to John's home in Newark. Since this item was shipped to the purchaser across state lines, the vendor is not required to collect the New York sales tax. However, John has incurred a use tax liability of \$48 ($\$800 \times 6\%$), payable to New Jersey.

Participation

Participating vendors have the following benefits:

- **One registration** filed with the state in which you are located;
- **One tax filing and payment** to the state in which you are located;
- **Use of the neighboring state's exemption certificates** for qualified transactions;
- **Certainty as to responsibilities to both states;** and
- **Continued customer goodwill.**

In addition, audits, when necessary, will be coordinated by the state in which you, the vendor, are located, allowing one audit to satisfy the requirements of both states.

Registration

You may obtain a registration application from either New York or New Jersey. When accepted into the program, you will receive a Certificate of Authority to collect and remit the neighboring state's sales tax.

One Filing, One Payment

Once approved, you will not have to file separate sales tax returns with each state. Instead, make one combined payment of tax for both states with your tax return filed with the state in which you are physically located. The tax due and remitted for the other state will be distributed to that state for you. Each state's tax return has been modified to allow a simple method of reporting taxes due both states. In this way, record keeping is minimized and the number of filings reduced.

Exemption Certificates

As a participating vendor, you can issue the neighboring state's resale and other exemption certificates for qualified transactions. Your use of these certificates is governed by the laws of the state in which you, as the purchaser, take possession of the items purchased.

Responsibilities

The courts have held that despite the absence of a physical location in a neighboring state, a vendor, under certain circumstances, may be held liable for the full amount of the tax due on all goods shipped into that state. Vendors shipping over the New York/New Jersey border could face a substantial assessment for up to twenty years of uncollected taxes.

A **non-participating** vendor's activities in the neighboring state are subject to scrutiny in an effort to discover existing or past tax collection responsibilities. Auditors in both states cooperate in conducting audits on targeted vendors. When the facts support it, an assessment for prior periods is made against these vendors. In all other cases, customers are assessed the use tax due by their state of residence.

Customer Goodwill

New York and New Jersey share information that makes it more difficult for taxable sales to go undetected. Customers of participating vendors will pay the tax due when they make their purchases. Customers of non-participating vendors may be assessed use tax, penalties and interest due their state of residence. Your business may suffer from the loss of customer goodwill.

Example: Jane Doe, a resident of New York City, purchases a living room suite from a factory outlet located in Secaucus, New Jersey. This vendor is **not** a participant in the New York/New Jersey tax agreement and has no locations in New York. The vendor agrees to deliver the furniture to her New York City home at the purchase price of \$2,000. May this vendor collect the New York sales or use tax? This vendor, as a non-participant in the NY/NJ Cooperative Interstate Tax Program, is **not authorized** to collect the New York state or local tax. Jane has incurred a \$165 use tax liability ($\$2,000 \times 8.25\%$). New Jersey tax authorities will furnish information to New York to enable New York to directly assess the tax, penalties and interest due.

Eligibility

As a vendor, you are generally eligible to participate in the NY/NJ Cooperative Interstate Tax Program if you:

- are registered for sales tax collection in the state in which you have a physical location;
- sell taxable goods or services across the New York/New Jersey border; and
- do not have a physical place of business in both New York and New Jersey.

Requirements

As a vendor participating in this program, you will file sales and use tax returns with your home state. On cross-border transactions, tax is collected at the rate applicable to the state where your customer takes possession of the items purchased. The sales and use tax laws of both New York and New Jersey will be complied with.

Example: Jane Doe, a resident of New York City, purchases furniture from a factory outlet located in Flemington, New Jersey. The vendor is a participant in the New York/New Jersey tax agreement program and agrees to deliver the furniture to Jane's New York City home. The purchase price is \$1,800. The combined sales tax rate for New York State and New York City is 8.25%. Sales tax due on this transaction is \$148.50 ($\$1,800 \times 8.25\%$). The New Jersey vendor separately states this tax on the invoice. The transaction is reflected on the vendor's New Jersey State sales and use tax return. The New York tax collected is remitted, along with any other sales and use taxes, to New Jersey, which will turn the tax over to the State of New York.

Getting Started

To participate, obtain a registration application from either New York or New Jersey and submit the completed application to the state in which you are located. This registration will be reviewed by both New York and New Jersey. If accepted, you will receive the neighboring state's Certificate of Authority, authorizing you to collect and remit the neighboring state's sales tax directly to the state in which you are located and to issue the neighboring state's resale and exemption certificates. All required information will be provided to you, along with the Certificate of Authority.

For More Information

If you would like to participate, or if you have additional questions, please contact:

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
BUILDING 8 ROOM 405
STATE CAMPUS
ALBANY NY 12227
(518) 457-1997

NEW JERSEY DIVISION OF TAXATION
CN 264
TRENTON NJ 08646-0264
(609) 984-0120