Technical Services

New York/New Jersey Cooperative Interstate Tax Program

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Introduction

An interstate sales tax agreement allows participating New York and New Jersey sellers that make sales of taxable goods and services across state lines to collect the other state's sales tax. The agreement also permits the states to actively exchange information regarding sales and use tax and corporate taxes.

The obligation to pay 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 New York/New Jersey agreement provides for the joint administration of both states' sales and use tax laws. Both states' 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 sellers have over in-State sellers when dealing with in-State customers.

Use Tax

Use tax is imposed when taxable items or services are purchased but sales tax was not collected by the retailer in the state of purchase or was collected at a rate less than the sales tax rate in the purchaser's home state. A state's sales tax rate and use tax rate are always the same. For more information on use tax, see **ANJ-7,** *Use Tax in New Jersey.*

Example: John Doe, a resident of Newark, New Jersey, goes to New York City to purchase a plasma television from a discount store whose only outlets are in New York. The purchase price is $800. The seller agrees to ship the television to John's home in Newark. Since this item was shipped to the purchaser across state lines, the seller is not required to collect the New York sales tax. However, John is liable for New Jersey **use tax** of $56 ($800 × 7%).

Eligibility

Sellers are generally eligible to participate in the NY/NJ Cooperative Interstate Tax Program if they are located in either New Jersey or New York and they:

- Are registered for sales tax collection in the state in which they 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.

Participation

Participating sellers have the following benefits:

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

Registration

To participate in the NY/NJ Cooperative Interstate Tax Program, sellers must be registered to collect sales tax in the state in which they are located. New businesses in New Jersey register for sales tax by filing a Business Registration Application **(Form NJ-REG).** Businesses that are already registered with New Jersey but that are not registered to collect sales tax must amend their registration by filing a Request for Change of Registration Information **(Form REG-C-L).** These forms may be filed online from the Division of Revenue's New Jersey Business Gateway Services Web site at: **www.state.nj.us/njbgs/.**

To become a participating seller in the NY/NJ Cooperative Interstate Tax Program, a registered business must obtain an *Application for New Jersey/New York State Simplified Sales and Use Tax Reporting* **(Form DTF-24)** from either New York or New Jersey and submit the completed application to the state in which they are located. This application will be reviewed by both New York and New Jersey. Once accepted, the seller will receive the other state's Certificate of Authority, authorizing them to collect and remit the other state's sales tax directly to the state in which the seller is located and to issue the other state's resale and exemption certificates. All required information will be provided along with the Certificate of Authority.

One Filing, One Payment

A participating seller in the NY/NJ Cooperative Interstate Tax Program will not have to file separate sales tax returns with each state. Instead, the seller will make one combined payment of tax for both states with the sales and use tax return filed with the state in which they are physically located. The tax due and remitted for the other state will be distributed to that state. Each state's tax return has been modified to allow a simple method of reporting taxes due to both states. In this way, recordkeeping is minimized and the number of filings reduced.

Exemption Certificates

A participating seller can issue the other state's resale and other exemption certificates for qualified transactions. Use of these certificates is governed by the laws of the state in which the purchaser takes possession of the items purchased.

Responsibilities

The courts have held that despite the absence of a physical location in a neighboring state, a seller, under certain circumstances, may be held liable for the full amount of the tax due on all goods shipped into that state. Sellers shipping across the New York/New Jersey border could face an assessment for up to 20 years of uncollected taxes.

A **nonparticipating** seller'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 sellers. When the facts support it, an assessment for prior periods is made against these sellers. In all other cases, customers are assessed the use tax due by their state of residence.

Requirements

A participating seller in the NY/NJ Cooperative Interstate Tax Program files sales and use tax returns with their home state. For cross-border transactions, tax is collected at the rate applicable to the state where the customer takes possession of the items purchased. The sales and use tax laws of both New York and New Jersey must be complied with.

Example: Jane Doe, a resident of New York City, purchases furniture from a factory outlet located in Flemington, New Jersey. The seller is a participant in the NY/NJ Cooperative Interstate Tax 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 8.375%. Sales tax due on this transaction is $150.75 ($1,800 × 8.375%). The New Jersey seller separately states this tax on the invoice. The transaction is reflected on the seller'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.

Customer Goodwill

Under the New York/New Jersey Interstate Sales Tax Agreement, the states share sales information, making it difficult for taxable sales to go undetected. Customers of participating sellers pay the tax due when they make their purchases. Customers of nonparticipating sellers may be assessed use tax, penalties, and interest due to their state of residence. Such assessment can result in a loss of customer goodwill for nonparticipating sellers.

Example: Jane Doe, a resident of New York City, purchases a living room suite for $2,000 from a factory outlet located in Secaucus, New Jersey. This seller is **not** a participant in the NY/NJ Cooperative Interstate Tax Program and has no locations, employee assignments, or sales or service activities in New York. The seller agrees to deliver the furniture to the customer's New York City home. As a nonparticipating seller, this retailer is **not authorized** to collect the New York state or local sales or use tax. Jane has incurred a $167.50 use tax liability ($2,000 × 8.375%). New Jersey tax authorities will furnish information to New York to enable New York to directly assess the tax, penalties, and interest due.

For More Information

For more information on the NY/NJ Cooperative Interstate Tax Program, or to become a participating seller, please contact:

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