



Making Mail-Order and Internet Sales

Bulletin S&U-5

Introduction

If you operate a business in New Jersey that sells products through the mail or over the Internet, you must comply with this State's tax laws. This bulletin explains the New Jersey sales tax rules that apply to mail-order and Internet retailers.

Important Notes

This publication has been updated to reflect the following changes:

P.L. 2005, c.126, effective October 1, 2005, conformed New Jersey's sales tax to the requirements of the Streamlined Sales and Use Tax Agreement (SSUTA).

P.L. 2006, c.44, increased the sales and use tax rate to 7% effective July 15, 2006, and expanded the sales and use tax base effective October 1, 2006.

Registration

New Jersey Registration

All businesses operating in New Jersey are required to register with the State for tax purposes by filing a Business Registration Application, Form NJ-REG, at least 15 business days prior to commencement or opening in this State. Registration is mandatory unless your business is located outside New Jersey and has no physical business presence within this State. (See *Who Must Collect Sales Tax* on page 2.)

Registration ensures that you will receive all the necessary forms and information that you need to comply with New Jersey tax laws. A Public Records Filing may also be required depending upon the type of business ownership. More information on Public Records Filing is available in the *New Jersey Complete Business Registration Package* ([NJ REG](#)) or by calling 609-292-9292.

Form NJ-REG may be filed online from the Division of Revenue's New Jersey Business Gateway Services Web site at: www.state.nj.us/njbgs/. The Public Records Filing required for certain businesses may also be completed online at the same Web site. (There is a fee associated with the Public Records Filing.)

Once you are registered you will be assigned an identification number, which is usually based on either your Federal identification number or your social security number. This identification number will appear on all preprinted forms that you receive. Be sure to include this New Jersey tax identification number on all checks and other correspondence that you send to us.

If you have indicated on your registration application that you will collect sales tax or purchase materials for resale, you will be issued a Certificate of Authority (Form CA-1) for sales tax. This certificate will bear the name of the proprietor or corporation or, in the case of a partnership, the names of the partners, as well as the trade name (if any), physical business location, and New Jersey tax identification number of your business. (For security purposes, only a portion of that number is printed on Form CA-1.) The Certificate of Authority must be prominently displayed at your place of business and returned to the State in the event you cease operations. If your business relocates, immediately notify the State through the Online Registration Change at: www.state.nj.us/njbgs/services.html#online or by using the Request for Change of Registration Information (Form REG-C-L) included in the registration package to obtain a corrected certificate.

Streamlined Sales Tax Central Registration

The central online registration system was developed by the Streamlined Sales and Use Tax Project for companies desiring to register with every member state of the Streamlined Sales and Use Tax Agreement (SSUTA), including those that adopt the agreement after the seller registers. Registering through this central system is *voluntary*. By registering through this system, sellers agree to collect and remit tax on all sales sourced to any full-member state. In addition, a registrant may choose to collect and remit taxes to any or all states that are associate members. Thus, if the business makes predominantly mail-order or online sales, by registering through this system it subjects itself to collecting the appropriate tax for goods delivered to locations in those states.

Sellers that register through the central system have the option of choosing among three methods of calculating, reporting, and remitting the tax. These methods involve the selection of a Certified Service

Provider (CSP) or a Certified Automated System (CAS), or using the seller's own proprietary system. Sellers may also report and remit tax based on traditional means, but there are benefits to utilizing one of the other systems that will not be available for traditional systems. Privacy and confidentiality protections are also addressed.

Additional information concerning the central registration system, the identification and certification of CSPs and CASs, and other administrative simplifications is available at: www.streamlinedsalestax.org/

The central registration system may be accessed on the Division's Web site at: www.state.nj.us/treasury/taxation/streamregpro.shtml

Sales and Use Tax

What is Taxable?

New Jersey imposes a 7% tax on the retail sale of most merchandise and certain services sold within this State. Some items are exempt from tax regardless of who buys them or how they are used. Food purchased for home consumption (except certain prepared food), clothing, footwear, and prescription drugs fall into this category. For more information, see publication [S&U-4](#), *New Jersey Sales Tax Guide*.

The law exempts other products from sales tax when they are purchased to be used in a particular manner. Purchases of certain machinery and equipment for use in the production of products intended for sale, and packaging materials necessary for the delivery of property are examples of items which are exempt because of their use.

Contact the Division of Taxation if you are uncertain whether you must pay sales tax on items or services you purchase for the business, or whether you must collect sales tax on an item you are planning to sell.

Who Must Collect Sales Tax?

New Jersey Sellers. In general, every New Jersey business selling taxable items or services must collect and remit New Jersey sales tax whenever such sales are completed by delivery of the item(s) to a New Jersey location or performance of the service within this State.

If you maintain any place of business in New Jersey, operate a Web site from a location within New Jersey, have employees working in this State, or own any business property here such as a warehouse or showroom, you have a physical presence in New Jersey and must register and collect New Jersey sales tax on all taxable transactions, including delivery charges. The term “employee” includes salespersons, consultants, customer representatives, service or repair technicians, instructors, and delivery persons, as well as independent representatives or solicitors acting as agents on your behalf. Contact the Division of Taxation if you are an out-of-State seller and you are uncertain whether you must register to collect New Jersey sales tax.

Out-of-State Sellers. Certain out-of-State sellers may not be required to collect New Jersey sales tax if their *only* contact with New Jersey is limited to maintaining a Web site outside this State which can be accessed by New Jersey residents; mailing catalogs, flyers, or other advertisements to potential customers in New Jersey; and/or shipping merchandise to a New Jersey destination by means of commercial common carrier, parcel post, or the United States mail.

Use Tax

The New Jersey Sales and Use Tax Act provides for a compensating use tax whenever sales tax is not collected by a seller of taxable items sold and delivered into New Jersey. The imposition of use tax helps protect New Jersey sellers from unfair competition from out-of-State sellers.

Typically, New Jersey sales tax is not collected on transactions where the seller is an out-of-State

business that is not required to register to collect the tax. Since the seller is not authorized to collect New Jersey sales tax in such cases, the *purchaser* must remit use tax directly to the State. Use tax is calculated at the same rate as sales tax and is based on the purchase price of the goods, including any delivery charges.

Example: Mary Jones, a New Jersey resident, purchases some decorative candles through a catalog sent to her by a California mail-order company called Waxing Romantic. Waxing Romantic does not have an office or employees in New Jersey and is not registered to collect New Jersey sales tax. The company bills Mary \$27.99 for the candles plus a charge of \$3.00 for shipping. Mary must remit 7% use tax ($\$30.99 \times .07 = \2.10) to New Jersey because sales tax was not collected by the seller.

Example: John Smith, a resident of Florida, purchases furniture from a store located in New Jersey. The seller agrees to deliver the furniture to John’s Florida home. Since the furniture is delivered out of State, the seller does not collect New Jersey sales tax and John does not owe New Jersey use tax.

Internet purchases are treated in the same manner as purchases made through the mail. If the Internet retailer does not have a physical business presence in New Jersey and is not registered with the State, sales tax is not collected on items delivered into the State and the customer must remit use tax to New Jersey.

If you are an out-of-State seller who is not required to collect New Jersey sales tax, a responsible customer service policy would be to inform your New Jersey customers of their obligation to pay use tax on their mail-order or Internet purchases. Your efforts might include a stamped message on your New Jersey customer’s receipt stating “*This purchase may be subject to your state’s use tax.*”

For more information on use tax, see publication [ANJ-7](#), *Use Tax in New Jersey*.

Exemption Certificates

New Jersey has exemption certificates which can be used to purchase goods and services without the payment of sales tax in certain situations. Each exemption certificate has a specific use. The New Jersey seller *accepting* an exemption certificate *must* always be registered with New Jersey. The most common certificates are the Resale Certificate ([Form ST-3](#)), Exempt Use Certificate ([Form ST-4](#)), and Exempt Organization Certificate (Form ST-5).

The seller must keep these rules in mind when accepting exemption certificates:

1. Accept an exemption certificate only if:
 - It is filled out completely and correctly; and
 - There is no reason to doubt that the customer has the right to make an exempt purchase.
2. Keep exemption certificates for at least four years from the date of the purchase.

Only one exemption certificate is necessary for additional purchases of the same general type. Keep a record of each sale covered by a blanket certificate. Retain this certificate for at least four years from the date of the last purchase covered by the certificate.

SSUTA Exemption Certificate. The Streamlined Sales and Use Tax Agreement provides for simplification and standardization in the administration of exemptions. The Streamlined Sales and Use Tax Certificate of Exemption (Form ST-SST), which will be accepted by all SSUTA member states, has been developed. As long as the certificate is completed by the purchaser and provided to the seller, the seller is relieved of responsibility for collecting sales tax, even if it is later determined that the purchaser was not eligible for the exemption. The certificate with instructions is available on the Division's Web site at: www.state.nj.us/treasury/taxation/prntsale.shtml

For more information, see Tax Topic Bulletin [S&U-6](#), *Sales Tax Exemption Administration*.

Collecting Sales Tax

As a New Jersey seller, you must collect sales tax on all taxable items sold that are delivered to a New Jersey location. This is true even if an out-of-State customer purchases a product from you and has it shipped to a recipient in New Jersey (e.g., a gift). A taxable transaction also occurs if your customer or his agent takes possession of the merchandise in New Jersey even if the items are later shipped out of State.

Delivery Charges. Your charges for the delivery of property (or services) directly to your customer are subject to sales tax if the items sold are subject to tax; delivery charges for nontaxable items are not subject to tax. "Delivery charges" means your charges for the *preparation and delivery* of property or services, and includes transportation, shipping, postage, handling, crating, packing, etc., even if such charges are separately stated on the bill. The taxability of delivery charges follows the taxability of the property or services sold. Thus, if a shipment includes both taxable and exempt property, you must allocate the delivery charges based on either total sales price or total weight, and collect tax on the portion of the delivery charges allocated to the taxable property. In such mixed transactions, if the seller does not allocate the delivery charges, the entire delivery charge is taxable.

Sales for Resale. When another business, whether registered in New Jersey or in another state, buys your product for resale and takes possession in New Jersey, the transaction is not taxable, provided the purchaser gives you a valid Resale Certificate (Form ST-3) or Streamlined Sales and Use Tax Certificate of Exemption (Form ST-SST). If a customer claiming a resale exemption does not issue an ST-3 or ST-SST, you must collect New Jersey sales tax.

Qualified Out-of-State Sellers. Qualified out-of-State sellers may make tax-exempt purchases in New Jersey of goods and services purchased for resale. When the qualified out-of-State seller carries the goods away with him from the point of sale, or sends his own vehicle or messenger to pick them up in New Jersey, the qualified out-of-State seller may use the Resale Certificate for Non-New Jersey Vendors ([Form ST-3NR](#)). “Qualified out-of-State sellers” are sellers that (1) are not registered with New Jersey, (2) are not required to be registered with New Jersey *and* (3) are registered with another state. An out-of-State seller may not use an ST-3NR unless the purchase qualifies for exemption under New Jersey law.

Drop Shipments. You might occasionally be instructed by an out-of-State business that is not registered in New Jersey to ship your product directly to *the out-of-State business’s* customer in New Jersey. This type of transaction is called a drop shipment. Since it is a sale for resale (you are selling your product to the out-of-State business even though you are delivering to the other business’s customer), you may accept any of the following:

- Purchaser’s out-of-State resale certificate (This is the *only* time that New Jersey accepts the exemption certificate of another state as valid.)
- Multijurisdiction Uniform Sales & Use Tax Certificate published by the Multistate Tax Commission
- Resale Certificate for Non-New Jersey Vendors (Form ST-3NR)
- Streamlined Sales and Use Tax Certificate of Exemption (Form ST-SST)

If your customer does not provide you with an exemption certificate, you must charge New Jersey sales tax.

Sales to Exempt Organizations

Some organizations such as churches, hospitals, veterans’ organizations, and fire companies are exempt from sales tax on purchases made for the exclusive use of the organization. The Division of Taxation issues an Exempt Organization Certificate (Form ST-5) only to those organizations that qualify for exempt status with the State of New Jersey. When you sell your product to such an organization, you must obtain a photocopy of its ST-5 certificate to show why sales tax was not collected.

Agencies of the Federal government and the United Nations, as well as the State of New Jersey and its political subdivisions, are also exempt from paying sales tax. However, these organizations do not use ST-5 certificates. Instead, they must provide you with a copy of a valid purchase order or contract, signed by an authorized official. When the amount of the purchase is \$150 or less, you may accept an Exempt Use Certificate (Form ST-4) from these government agencies in place of a purchase order or contract.

Purchases made by Federal employees are exempt when payment is made by Federal check or voucher or with the proper SmartPay credit card. Only Visa or MasterCard credit cards imprinted with “United States of America – SmartPay for Official Government *Purchases* Only U.S. Government Tax Exempt” or “United States of America – SmartPay for Official Government *Use* Only” are acceptable for tax-exempt purchases. Such transactions are billed directly to and paid by the U.S. Government. Credit card purchases billed to and paid by a Federal employee who is later reimbursed by the Federal government are subject to sales tax.

Certain purchases by foreign diplomatic and consular personnel residing in the United States are also exempt from sales tax. There are two types of sales

tax exemption cards issued by the U.S. Department of State, Office of Foreign Missions, that are acceptable as proof of the exemption. Personal sales tax exemption cards are issued for the sole benefit of the individual identified on the card. Mission tax exemption cards are issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the card. For more information, see Technical Bulletin [TB-53](#), *Diplomat/Consular Sales Tax Exemptions*.

Sales to Out-of-State Customers

Items that are normally taxable when sold and delivered to a New Jersey location are generally *not* subject to New Jersey sales tax when they are shipped to a destination outside this State. The taxability of the transaction is determined by the laws of the state in which the purchaser or his agent takes possession of the merchandise. Contact the taxing authority of the state into which the items are delivered to find out your responsibilities under their sales tax laws.

If no New Jersey sales tax was charged on a New Jersey taxable item because it was shipped out of State, and the item is subsequently returned to New Jersey for use within this State, use tax may be due if the purchaser was a New Jersey resident.

For more information, see publication [ANJ-10](#), *Out-of-State Sales & New Jersey Sales Tax*, and Tax Topic Bulletin [S&U-6](#), *Sales Tax Exemption Administration*.

Paying Sales Tax to Suppliers Inventory and Materials

Products that you buy for resale (inventory) are not taxable. Also exempt are any raw materials that are incorporated into a finished product you make and sell. When you purchase such items, you may issue a Resale Certificate (Form ST-3) or Streamlined Sales and Use Tax Certificate of Exemption (Form ST-SST) to your supplier and not pay sales tax.

Example: You design and print your own greeting cards and sell them through your Internet company, Felicity Greetings. You may issue an ST-3 or ST-SST to your New Jersey supplier when you buy the paper, ink, paint, and glue that ultimately become part of the cards that you sell. You pay no sales tax when you purchase these materials.

If you buy materials or inventory items with a resale certificate and decide to use them for your own purposes (not resell them), you must remit 7% of the wholesale purchase price as use tax.

Tools and Supplies

When you buy tools and supplies, you must pay sales tax. Items such as scissors, knives, brushes, easels, hand tools, detergents, and disposable paper products differ from materials in that they are not resold as part of your final product. Supplies become your personal property; they belong to you and are not entitled to any exemption.

Packaging Materials

Nonreturnable materials used to contain, protect, wrap, and ship property are exempt from New Jersey sales tax. You may issue an Exempt Use Certificate (Form ST-4) or Streamlined Sales and Use Tax Certificate of Exemption (Form ST-SST) to your supplier when purchasing these items and not pay sales tax. The packaging materials must be used in the delivery of property to qualify for the exemption. Inventory storage containers are not considered to be exempt packaging materials, nor are materials used within your business facility. However, containers that are used in a farming enterprise are exempt.

Equipment

When you purchase office equipment (e.g., computers, printers, fax machines, copiers, desks, etc.) for use in your business, you are required to pay sales tax. If you do not pay New Jersey sales tax on such items at the time of purchase, you owe use tax.

Machinery or equipment used *directly* and *primarily* in the production of tangible personal property for resale by manufacturing, processing, assembling or refining, however, is exempt. You may issue an Exempt Use Certificate (Form ST-4) or Streamlined Sales and Use Tax Certificate of Exemption (Form ST-SST) to your supplier when purchasing such equipment. (The exemption does not apply to tools which are simple, hand-held, and manually-operated instruments.)

Example: Felicity Greetings uses computers to operate its Internet Web site and to design greeting cards, among other things. The business must pay either sales or use tax on such purchases of computer equipment. Felicity Greetings prints some cards on its own printing press. Since the printing press is used directly in the production of products for resale, Felicity Greetings issued an ST-4 and paid no sales tax when it purchased the press from a New Jersey supplier.

For more information, see Tax Topic Bulletins [S&U-6](#), *Sales Tax Exemption Administration*, and [S&U-9](#), *Business Purchases*.

Out-of-State Purchases

If you buy taxable tangible personal property or digital property outside New Jersey for use in this State, you must remit 7% use tax to New Jersey if you paid no sales tax to the state where you made the purchase. If you paid a lesser tax in the state of purchase (4% for example) and the other state has sales tax reciprocity with New Jersey, you must remit the difference (3%) to the State of New Jersey.

NOTE: If the tangible property (or digital property) purchased outside of New Jersey is entitled to exemption in New Jersey (e.g., production machinery), you are not required to remit use tax.

For more information on use tax, see publication [ANJ-7](#), *Use Tax in New Jersey*.

Filing Returns and Keeping Records

Whether your business is large or small, keeping accurate records makes good business sense. For example, New Jersey requires you to retain copies of the exemption certificates that you accept from your customers for at least four years to show why you did not collect sales tax. You should also keep copies of invoices and other records, such as those that verify out-of-State deliveries (shipping receipts, bills of lading, etc.) in case of audit.

Filing Sales Tax Returns

As a New Jersey seller collecting sales tax and remitting use tax, you must file a New Jersey Sales and Use Tax Quarterly Return (Form ST-50) every three months, whether or not any sales or use tax is due for that particular quarter. In addition, if you have a sales tax liability of more than \$500 during the first or second month of the quarter, you must file a Sales and Use Tax Monthly Return (Form ST-51) for either or both months and pay the tax due for that month. Monthly and quarterly returns are due by the 20th day of the month following the end of the period covered by the return.

All taxpayers must file their sales and use tax returns electronically, either online or by phone through the NJ Sales and Use Tax EZ File Systems, and submit payments electronically by electronic check (e-check), electronic funds transfer (EFT), or credit card.

For more information, see Tax Topic Bulletin [S&U-7](#), *Filing Sales & Use Tax Returns*.

Other Taxes

Employer Withholding

Every New Jersey employer is required to register with the State and to withhold New Jersey income tax from wages paid to both resident and nonresident employees working in this State. By completing and filing Form NJ-REG as an employer, your business

will be registered for applicable taxes and related liabilities that are administered by both the Division of Taxation and the Department of Labor and Workforce Development. You will be authorized to withhold and remit New Jersey income tax as well as New Jersey unemployment insurance/workforce development partnership fund/supplemental workforce fund contributions and disability insurance contributions. In addition, beginning January 1, 2009, all employers are required to withhold and remit contributions for family leave insurance.

Beginning January 1, 2007, any person (other than a governmental entity, a homeowner, or a tenant) who maintains an office or transacts business in New Jersey is required to withhold New Jersey gross income tax at the rate of 7% from payments made to unregistered, unincorporated contractors for services performed in this State. For more information see the related notice [Withholding Requirements for Construction Contractor Services](#).

For more information on a business's responsibilities as an employer, refer to the *New Jersey Gross Income Tax Instruction Booklet for Employers, Payors of Pension and Annuity Income and Payors of Gambling Winnings (NJ-WT)* or to Tax Topic Bulletin [MISC-1, Employer Responsibilities](#).

Gross Income Tax Estimated Payments

New Jersey's income tax is a "pay as you go" tax. You must pay the tax as you earn or receive income throughout the year. Unlike the requirement that an employer withhold the tax from wages, there are no provisions for withholding New Jersey income tax from the business income of a sole proprietor, partner or, in general, shareholder of a corporation. New Jersey residents with business income and

nonresidents with business income from New Jersey sources may be required to make estimated tax payments to satisfy their liability to the State on these earnings. You must file a quarterly Declaration of Estimated Tax (Form NJ-1040-ES) if you estimate your New Jersey income tax liability to be more than \$400 in excess of any credits for the tax year.

For more information, see Tax Topic Bulletin [GIT-8, Estimating Income Taxes](#).

Corporation Business Tax

The New Jersey Corporation Business Tax Act imposes an annual franchise tax on every New Jersey corporation and every out-of-State corporation which acquires a taxable status in New Jersey by doing business, deriving income, employing or owning capital or property, or maintaining an office in New Jersey. Both domestic and foreign corporations are required to file a New Jersey Corporation Business Tax Return (Form CBT-100) regardless of whether they had any assets or conducted any business activities.

A corporation may elect to be treated as a New Jersey S corporation by filing the New Jersey S Corporation or New Jersey QSSS Election (Form CBT-2553), provided the corporation is or will be an S corporation for Federal purposes. S Corporations pay a reduced rate of corporation tax. All New Jersey S corporations must file the New Jersey S Corporation Business Tax Return (Form CBT-100S) instead of Form CBT-100.

For more information on corporation business tax, refer to the [CBT-100](#) or [CBT-100S](#) instruction booklet.

For More Information

By Phone

- Call the Division of Taxation's Customer Service Center at **609-292-6400**.
- Text Telephone Service (TTY/TDD) for Hard-of-Hearing Users: **1-800-286-6613** (toll-free within NJ, NY, PA, DE, and MD) or **609-984-7300**. These numbers are accessible *only* from TTY devices. Submit a text message on any tax matter and receive a reply through NJ Relay Services (711).

Online

- Division of Taxation Web site:
www.state.nj.us/treasury/taxation/
- E-mail: **nj.taxation@treas.state.nj.us**
- Subscribe to *NJ Tax E-News*, the Division of Taxation's online information service, at:
www.state.nj.us/treasury/taxation/listservservice.shtml

In Writing

New Jersey Division of Taxation
Information and Publications Branch
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Order Forms and Publications

- Call the Forms Request System at **1-800-323-4400** (within NJ, NY, PA, DE, and MD) or **609-826-4400**. Touch-tone phones only.
- Call NJ TaxFax at **609-826-4500** from your fax machine's phone.
- Visit the Division of Taxation's Web site:
www.state.nj.us/.treasury/taxation/