

1998 New York State Legislation Affecting The Connecticut/New York Reciprocal Tax Program

PURPOSE: This Special Notice describes New York State legislation as it affects Connecticut based vendors participating in the Connecticut/New York Reciprocal Tax Program.

EFFECTIVE DATE: Effective for the week of January 17, 1999, through January 24, 1999.

STATUTORY AUTHORITY: Chapter 56 Laws of 1998, State of New York.

CERTAIN CLOTHING AND FOOTWEAR EXEMPT FROM NEW YORK STATE'S 4% SALES AND USE TAXES:

A change in New York State tax law, effective for the week of January 17, 1999, through January 24, 1999, provides New York vendors a temporary exemption from New York State's 4% sales and use taxes for certain clothing and footwear. The exemption also applies to Connecticut based vendors participating in the Connecticut/New York Reciprocal Tax Program. Participating vendors are required to claim the exemption on New York Schedule H.

NEW YORK SCHEDULE H FILING REQUIREMENTS:

Vendors that file either monthly or quarterly returns may claim the exemption on the New York Schedule H. This schedule contains lines to report sales of clothing and footwear made during the exemption period for each locality (county and city) imposing taxes in New York. All sales of eligible clothing and footwear during that week must be separately reported for the locality in which the sales were made whether they are subject to local tax (because a city or county did not enact the exemption), or are totally exempt from state and local tax.

New York Schedule H will be mailed to all monthly filers of OP-284 for the month ending January 31, 1999, and all quarterly filers of OP-284Q for the quarter ending March 31, 1999. This schedule should be completed and filed along with their respective return. **This exemption is not**

allowed against Connecticut sales and use taxes collected on sales of clothing and footwear costing \$50 or more.

The exemption applies to the ¼% tax imposed by New York State in the Metropolitan Commuter Transportation District (MCTD). The MCTD consists of the City of New York and Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester counties. The exemption also applies to many, but not all, locally imposed sales and use taxes. (See below and New York State publication TSB-M-98(7)S.)

CITIES AND COUNTIES WHERE TAX STILL APPLIES TO CLOTHING ITEMS DURING THE WEEK OF JANUARY 17, 1999, THROUGH JANUARY 24, 1999:

The exemption applies in all New York cities and counties except the following. The rates during the exemption week for these cities and counties are listed:

<u>Locality</u>	<u>Rate During One- Week Exemption Period</u>
<u>Counties:</u>	
Lewis County	3%
Montgomery County	3%
Orleans County	4%
Westchester County (outside the cities of Mount Vernon, New Rochelle, White Plains and Yonkers)	2 ½%
<u>Cities:</u>	
Mount Vernon – located in Westchester County	4%
New Rochelle – located in Westchester County	4%
Rome – located in Oneida County	1 ¾%
White Plains – located in Westchester County	3 ½%
Yonkers – located in Westchester County	4%

CLOTHING AND FOOTWEAR THAT QUALIFY FOR THE EXEMPTION:

The New York exemption applies to items of clothing and footwear worn on the human body. The article of clothing or footwear must be sold for less than \$500. However, not all items worn on the body are clothing or footwear:

Exempt Items:

- Belt buckles, cloth headbands, and neckwear such as ties and scarves are exempt.
- This \$500 limitation also applies to each item of fabric, thread, yarn, buttons, etc., used to make or repair exempt clothing. Any charge by the vendor for alterations must be included in determining whether the "less than \$500" limitation has been met.
- Monogramming of clothing prior to its sale is eligible for exemption where the monogramming is sold as part of the article. However, if the monogramming is done by a vendor for a separate charge, the charge for this service is not eligible for exemption. Monogramming includes application of decals, logos and like items (pictures, letters, etc.) by sewing, printing, imprinting, silk screening, etc.

Nonexempt Items:

- Jewelry, watches, etc. remain taxable.
- Equipment items such as tool belts, hard hats, bicycle, ski, and motorcycle helmets are not exempt from tax. Goggles for skiing and swimming, cleated and spiked shoes, hockey, baseball and lacrosse masks, baseball gloves, fireplace mittens, and similar pieces of equipment (sporting or otherwise) remain subject to tax.
- Costumes and rented formal wear are not eligible for exemption. The exemption does not apply to fabric, thread, yarn, buttons, etc., used to make or repair costumes or rented formal wear.

SPECIAL RULES THAT APPLY ONLY DURING THE ONE - WEEK EXEMPTION:

The following special rules are to be used **only** for purposes of determining whether a sale of clothing or footwear qualifies for the New York sales and use tax exemption offered during the week of January 17, 1999, through January 24, 1999.

Delivery, Shipping and Handling Charges:

- Reasonable delivery charges by vendors for items of clothing or footwear costing less than \$500 are *not* taken into account in determining if the item is exempt. For example, if an item of clothing sells for \$495 and the vendor charges \$10 for delivery, no New York sales or use tax is due on the clothing or delivery charge since the item of clothing meets the "less than \$500" limitation.

- Delivery charges by vendors for items costing \$500 or more remain subject to tax.

Mail, Telephone, Internet, E-mail and Computer Bulletin Board Orders:

The exemption applies to all eligible clothing and footwear items ordered by mail, telephone, the Internet, e-mail and computer bulletin boards, if the orders are accepted by the vendor during the week of exemption. The exemption will apply even though delivery might not be made during the exempt period. An order is accepted by the vendor when the vendor has taken an action to fill the order. Actions to fill an order include placing an ***in-date*** stamp on a mail order and assigning an "order number" to a telephone order.

Layaway Sales:

A layaway sale is a sale where merchandise is set aside for future delivery to a customer who makes a deposit and agrees to pay the balance of the purchase price over a period of time before the merchandise is delivered. If a vendor and a customer enter into a contract for a layaway sale of eligible clothing or footwear during the exempt period, the exemption will apply as long as the customer makes a deposit of 10% and the merchandise is segregated from other inventory. Charges made by a vendor for placing merchandise on layaway are included when determining if the "less than \$500" limitation has been met.

Custom and Special Orders:

The vendor and customer must enter into a contract during the exempt period to have the custom or special order made for the customer in order for the clothing or footwear item to qualify for the exemption. An eligible item qualifies for the exemption even though it will be delivered after the exemption period.

Rain Checks:

The exemption does not apply to clothing or footwear purchased after January 24, 1999, even though the purchaser uses a ***rain check*** that was issued during the week of January 17, 1999, through January 24, 1999.

Exchanges:

If an exempt item of clothing is returned to a vendor after January 24, 1999 for an exchange, there will be no additional tax as long as the item is exchanged for a like item, such as a shirt for a shirt. However, where a customer returns an item and receives a credit or is allowed to purchase a different item, the appropriate sales tax applies to the sale of the newly purchased item. For example, if a customer buys a shirt during the exemption period and exchanges it the following month for a pair of boots, tax is due on the full price of the boots.

Coupons:

- Where a customer uses a manufacturer's coupon to pay for eligible clothing or footwear, the value of the coupon does not reduce the selling price for purposes of determining if the item sold for less than \$500.
- Where a customer pays for eligible clothing or footwear using a store coupon, for which the store receives no reimbursement, the store coupon does reduce the selling price for purposes of determining if the item is sold for less than \$500.

EFFECT OF THIS DOCUMENT: A Special Notice (SN) is a document that, in response to newly enacted or amended Connecticut or federal laws or in response to newly released judicial decisions, announces a new Department position, policy or practice affecting the tax liability of taxpayers.

FOR FURTHER INFORMATION: For a complete list of clothing eligible for the New York State tax exemption, contact the New York State Department of Taxation and Finance at 1-800-462-8100 (from Connecticut) and request a copy of TSB-M-98(7)S, *One-Week Sales and Use Tax Exemption on Clothing*.

If you have questions about Connecticut taxes, please call the Department of Revenue Services during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (anywhere).
- **TTY, TDD and Text Telephone users only** may transmit inquiries 24 hours a day, seven days a week, by calling 860-297-4911.

FORMS AND PUBLICATIONS: Forms and publications are available 24 hrs. a day, seven days a week:

- **Internet:** preview and download forms and publications from the DRS web site: <http://www.state.ct.us/drs>;
- **DRS TAX-FAX:** call **860-297-5698** from the handset attached to your fax machine and select from the menu; or
- **Telephone:** Call **1-800-382-9463** (in-state), or **860-297-5962** (anywhere) and select **Option 2** from a touch-tone phone.

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