



Buy on the Internet and Save the Sales Tax – Not Quite!

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FOR MANY YEARS there has been the common misconception that if a person or business makes an out of state purchase, you can save the sales tax. There are many ways these out of state purchases occur:

- Internet websites
- Mail order catalogs
- 800 numbers
- TV shopping channels
- Out of state travel

New York has a “back door” method of taxing all of these purchases called the “compensating use tax.”

This compensating use tax imposes a tax equal to what the sales tax would be on any goods or services used or received in New York that would normally have been subject to sales tax but, for whatever reason, escaped taxation. Worst of all, if you forget to volunteer this money to the New York State Department of Taxation of Finance, they can assess you not only the tax, but interest and penalties as well.

Let’s look at a classic example:

Your business needs a new computer, so you go around the block and buy a \$1,000 laptop from the local computer store, they charge you \$86.25 in sales tax, therefore, the computer cost you a total of \$1,086.25.

To save some money, you decide to order a very similar laptop either through a website, or via an 800 number you saw on TV, or through a catalog you got in the mail. That laptop also costs \$1,000 and the out of state company you are buying from does not charge sales tax, your business saves \$86.25. Right? NO!

New York law requires that your business mail a check (and a form of course) to the state government for \$86.25 to “level the playing field” between the New York business and the out of state business. For you, the computer ends up costing \$1,086.25 no matter where

you buy it. This rule applies to both individuals and business!

You may ask yourself, is New York serious about collecting this use tax? The answer is YES, very serious. In 2003 New York added a line to every residents personal income tax return so that everyone can easily report the amount of use tax that they owe. New York even added a chart to the income tax instructions with “recommended amounts” for every individual to pay based upon one’s income. For those of you thinking of putting a “zero” on the line, remember you are signing your return that the information on the return is correct to the best of your knowledge, under penalties of perjury.

On the business side, New York recently completed its Tax Amnesty. The regional offices of The Department of Taxation and Finance, which conduct thousands of sales and use tax audits annually, have been given new stricter guidelines. These guidelines include no longer waiving penalties on many first time audits, and a greater likelihood that substantial tax misstatements get reported to “CID” – the Criminal Investigation Division.

A few simple actions could save you hours of headaches and also save you tens of thousands in legal fees. If you’re not filing sales and use tax returns on at least an annual basis, or you’ve never had a conversation with your accountant about sales and use tax, please give us a call. A simple phone call could save you more than you know.

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COMMON MISCONCEPTIONS:

1. **If I buy something on the Internet it is exempt from tax.**
2. **If someone does not charge me tax I don’t have to pay the tax.**
3. **If someone pays cash there is no sales tax due.**
4. **If you buy something out of state and have it shipped into NY no sales tax is due.**
5. **If you buy something out of state and bring it into NY no sales tax is due.**

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