



Making Mail-Order and Internet Sales

Tax Topic 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

Sales and Use Tax Rate Change. A new law reduced the New Jersey Sales and Use Tax rate from 7% to 6.875% on January 1, 2017. The law requires a reduction to 6.625% on January 1, 2018. Additional information about the rate change is available [online](#). **The examples in this publication use the 2017 rate.**

This document is designed to provide guidance to taxpayers and is accurate as of the date issued. Subsequent changes in tax law or its interpretation may affect the accuracy of this publication.

Registration

New Jersey Registration

Every person or entity engaged in selling taxable property (including specified digital products) or services in this State or otherwise conducting or [soliciting business](#) in New Jersey must register with the State for tax purposes. Conducting business includes maintaining a place of business in New Jersey, owning business property here, and employing workers in this State. (See [Who Must Collect Sales Tax](#) on page 3.)

To fulfill the registration obligation, you must file a business registration application (Form [NJ-REG](#)) at least 15 business days prior to starting business or opening an additional place of business in New Jersey. If you indicate on your application that you will be collecting Sales Tax or purchasing materials for resale, you will be sent a New Jersey Certificate of Authority for Sales Tax (Form CA-1). This certificate is your authorization to collect New Jersey Sales Tax and to accept exemption certificates.

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](#) or by using the Request for Change of Registration Information ([Form REG-C-L](#)) included in the registration package to get a corrected certificate.

You also may be required to make a Public Records Filing depending on 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.

You may file Form NJ-REG [online](#) through the Division of Revenue and Enterprise Services' NJ Business Gateway Services. You also may complete the Public Records Filing required for corporations, limited liability companies, limited partnerships, and limited liability partnerships online from this website.

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. Include your New Jersey tax identification number on all checks and other correspondence that you send to us.

Streamlined Sales Tax Central Registration

The central online registration system was developed by the Streamlined Sales and Use Tax Project for sellers that want to register with every member state of the Streamlined Sales and Use Tax Agreement (SSUTA), including those states 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 registered seller may choose to collect and remit taxes to any or all states that are associate members. By registering through the central system, a seller that makes predominantly mail-order or online sales subjects itself to collecting the appropriate tax for property delivered to locations in associate member states.

Sellers that register through the central system have the option of choosing from three methods of calculating, reporting, and remitting the tax. These methods involve the selection of a Certified Service Provider (CSP), a Certified Automated System (CAS), or the seller's own proprietary system. Sellers also may report and remit tax based on traditional means, but there are benefits to using one of the other systems that are not available for traditional systems. Privacy and confidentiality protections also are addressed.

Additional information about the central registration system, the identification and certification of CSPs and CASs, and other administrative simplifications is available on the [Streamlined Sales Tax website](#).

Sales and Use Tax

What is Taxable?

The New Jersey Sales and Use Tax Act imposes a tax on the receipts from every retail sale of tangible personal property, specified digital products, certain services, admissions, prepared food, and certain membership fees and parking charges, except as otherwise provided in the Act. In addition, most services performed on tangible personal property are taxable unless they are specifically exempted by law. Tangible personal property is property that can be owned or leased, has a physical presence, and is moveable (with or without difficulty). It is defined to include prewritten computer software delivered electronically.

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 drugs fall into this category. For more information, see Tax Topic Bulletin [S&U-4](#), *New Jersey Sales Tax Guide*.

Other products are exempt 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 that 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, or whether you must collect Sales Tax on an item or service you are planning to sell.

For more information on the taxability of property and services, see Tax Topic Bulletins [S&U-4](#), *New Jersey Sales Tax Guide*, and [S&U-6](#), *Sales Tax Exemption Administration*.

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 when such sales are completed by delivery of the item(s) to a New Jersey location or performance of the service in this State.

If you maintain a place of business in New Jersey, operate a website from a location in 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. This means you 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 website outside this State that can be accessed by New Jersey residents; mailing catalogs, flyers, or other advertisements to potential customers in New Jersey; and/or shipping property to a New Jersey destination by means of commercial common carrier, parcel post, or the United States mail.

An out-of-state seller that makes taxable sales of tangible personal property, specified digital products, or services is presumed to be soliciting business in New Jersey if that seller meets the following conditions:

1. The seller enters into an agreement with a New Jersey independent contractor or other representative to refer potential customers via a link on a website, or otherwise, to that out-of-state seller in exchange for consideration based on completed sales; and
2. The seller has sales from these referrals to customers in New Jersey in excess of \$10,000 for the prior four quarterly periods ending on the last day of March, June, September, and December.

Out-of-state sellers that meet both of these conditions are presumed to be soliciting business and have nexus with New Jersey. The out-of-state seller must register for Sales Tax purposes and collect and remit Sales Tax on all sales delivered into New Jersey unless the seller provides proof that the independent contractor or representative did not engage in any solicitation on the seller's behalf in New Jersey.

For more information, see [TB-76](#), *Presumption of Soliciting Business in New Jersey by Out-of-State Seller*, and [Notice – Sales and Use Tax Requirement for Out-of-State Sellers to Collect Sales Tax if Soliciting Business in New Jersey](#).

Use Tax

Use Tax is due when taxable property (including specified digital products) and services are purchased for use in New Jersey but Sales Tax is not collected by the seller or is collected at a rate less than the New Jersey Sales Tax rate. 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 when the seller is an out-of-state business that is not required to register to collect the tax. Because the seller is not authorized to collect New Jersey Sales Tax, the *purchaser* must pay 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 property, 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. The company 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 6.875% Use Tax ($\$30.99 \times .06875 = \2.13) to New Jersey because the seller did not collect Sales Tax. (Note: New Jersey's Sales Tax rate will decrease to 6.625% on January 1, 2018.)*

Example: *John Smith, a resident of Florida, purchases furniture online 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, the seller does not collect Sales Tax on items delivered into the State and the customer must pay Use Tax to New Jersey.

If you are an out-of-state seller that is not required to collect New Jersey Sales Tax, you should inform your New Jersey customers that they must pay Use Tax on their mail-order or internet purchases. You may want to include a message on your New Jersey customers' receipts that says: 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 that buyers can use to purchase property and services without paying Sales Tax in certain situations. Each exemption certificate has a specific use. A New Jersey seller that accepts an exemption certificate *must* 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 fully completed; and
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. The seller must keep a record of every sale covered by a blanket certificate and must keep this certificate for at least four years from the date of the last purchase covered by the certificate.

SSUTA Exemption Certificate. As long as the purchaser completes the Streamlined Sales and Use Tax Agreement Certificate of Exemption ([Form ST-SST](#)), which is accepted by all SSUTA member states, and provides it 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. For more information, see Tax Topic Bulletin [S&U-6](#), *Sales Tax Exemption Administration*.

Collecting Sales Tax

If you are a New Jersey seller, you must collect Sales Tax on all taxable items that you sell and deliver 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 an agent acting on behalf of the customer, takes possession of the property in New Jersey even if the items are later shipped out of state. If the customer is given a sales slip, invoice, receipt or other statement showing the price, service charge, amusement charge, or rent paid or payable, the tax must be stated, charged, and shown separately on the document that is provided ([N.J.S.A. 54:32B-12\(a\)](#)).

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. If you don't allocate the delivery charges for a shipment that includes both taxable and exempt property, you must charge tax on the entire delivery charge.

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, as long as the purchaser gives you a fully completed Resale Certificate (Form ST-3) or Streamlined Sales and Use Tax Agreement Certificate of Exemption (Form ST-SST). If a customer claiming a resale exemption does not give you a fully completed 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 property and services purchased for resale. When the qualified out-of-state seller carries the property away from the point of sale, or sends its 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 Sellers ([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. Occasionally an out-of-state business that is not registered in New Jersey may instruct you to ship your product directly to their customer in New Jersey. This type of transaction is called a drop shipment. Since it is a sale for resale (you're selling your product to the out-of-state business even though you're delivering it directly to their customer in New Jersey), 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 Sellers (Form ST-3NR);

- Streamlined Sales and Use Tax Agreement 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) 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 get a photocopy of its ST-5 certificate to show why you did not collect Sales Tax.

Any New Jersey State agency, political subdivision of the State of New Jersey, federal agency, the United Nations, or any other international organization of which the United States is a member also is exempt from paying Sales Tax. However, these organizations do not use ST-5 certificates. In transactions with government agencies, the acceptable proof of exemption from Sales Tax is:

- A copy of a government purchase order, official contract, or order on official government letterhead signed by a qualified officer. When the amount of the transaction is \$150 or less, a fully completed Exempt Use Certificate (Form ST-4) form can be issued instead; and
- Payment must be made by the agency's check or voucher or with a GSA SmartPay 2 credit card that has 0, 6, 7, 8, or 9 as the sixth digit of the account number (credit card charged to and paid directly by the federal government). If payment is made with a GSA SmartPay card having a 1, 2, 3, or 4 as the sixth digit, the transaction is taxable because the card is billed to and paid by the employee.

In addition, certain exemptions are granted to qualified foreign diplomatic and consular personnel who reside in the United States. See Technical Bulletin [TB-53](#), *Diplomat/Consular Sales Tax Exemptions*.

For more information, see Tax Topic Bulletin [MISC-3](#), *Tax Treatment of Nonprofit Organizations and Government Entities*.

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 the purchaser's agent, takes possession of the property. You should 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 in this State, Use Tax may be due if the purchaser is 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 Agreement 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. You may issue a fully completed 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 later decide to use them for your own purposes (not resell them), you must pay Use Tax on the wholesale purchase price.

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 raw materials in that they are not incorporated into and 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 a fully completed Exempt Use Certificate (Form ST-4) or

Streamlined Sales and Use Tax Agreement Certificate of Exemption (Form ST-SST) to your supplier when purchasing these items and not pay Sales Tax. To qualify for the exemption the packaging materials must be used in the delivery of property. Inventory storage containers are not considered to be exempt packaging materials, nor are materials used in 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.

However, machinery or equipment is exempt if used *directly and primarily* in the production of tangible personal property for resale by manufacturing, processing, assembling or refining. You may issue a fully completed Exempt Use Certificate (Form ST-4) or Streamlined Sales and Use Tax Agreement Certificate of Exemption (Form ST-SST) to your supplier when purchasing such equipment. (The exemption does not apply to tools that are simple, handheld, and manually operated instruments.)

Example: *Company A uses computers to operate its website and to design greeting cards, among other things. The business must pay either Sales or Use Tax on such purchases of computer equipment. The company also prints some cards on its own printing press. Since the printing press is used directly in the production of products for resale, Company A issued a fully completed 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 specified digital products outside New Jersey for use in this State, you must pay Use Tax to New Jersey if you did not pay 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 can document the payment, you may remit the difference (2.875%) to the State of New Jersey instead of the full 6.875%. (**Note:** New Jersey's Sales Tax rate will decrease to 6.625% on January 1, 2018.)

Note: If the tangible property (or specified digital product) purchased outside New Jersey is entitled to exemption in New Jersey (e.g., production machinery), you are not required to pay Use Tax.

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

Filing Returns and Keeping Records

New Jersey requires you to keep 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 also should 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 Quarterly Returns and Monthly Remittance Statements

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 collected more than \$30,000 in New Jersey Sales and Use Tax during the preceding calendar year, you must file a Sales and Use Tax Monthly Remittance Statement (Form ST-51) for the first and/or second month of each calendar quarter (January, February, April, May, July, August, October, and November) and make the required payment if the amount of tax due for that month is more than \$500. If you collected \$30,000 or less in New Jersey Sales and Use Tax during the preceding calendar year, you are not required to file Form ST-51 regardless of the amount of tax due for that particular month.

Monthly remittance statements and quarterly returns are due by the 20th day of the month following the end of the period covered by the filing. All taxpayers must file their Sales and Use Tax quarterly returns and monthly remittance statements electronically, either online or by phone through the NJ Sales and Use Tax EZ File Systems, and submit payments electronically, either by electronic check (e-check), electronic funds transfer (EFT), or credit card.

For more information, see Tax Topic Bulletin [S&U-7](#), *Filing Sales and 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, disability insurance contributions, and family leave insurance contributions.

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 Income Tax at the rate of 7% in 2017 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 Income Tax Withholding Instructions* ([NJ-WT](#)).

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 Income Tax 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 for the tax year to be more than \$400 in excess of any credits.

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 that 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), as long as 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

Online

- Division of Taxation [website](#);
- [Email](#) general State tax questions.
Do not include confidential information such as Social Security or federal tax identification numbers, liability or payment amounts, dates of birth, or bank account numbers in your email;
- Subscribe to [NJ Tax E-News](#), the Division of Taxation's online information service.

By Phone

- Call the Division of Taxation's Customer Service Center at **609-292-6400**;
- Text Telephone Service (TTY/TDD) for Hearing-Impaired 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 New Jersey tax matter and receive a reply through NJ Relay Services (711).

In Person

Visit a New Jersey Division of Taxation Regional Information Center. For the address of the center nearest you, visit our [website](#) or call the Automated Tax Information System at 1-800-323-4400.

Forms and Publications

- Visit the Division of Taxation's website for [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) to have printed forms or publications mailed to you.
Note: Due to budgetary constraints, supplies are limited and only certain forms and publications can be ordered through this System.