



Summary of Sales and Use Tax Budget Legislation Enacted in 2019

The following sales and use tax changes were part of the 2019-2020 New York State budget and are briefly discussed in this memorandum:

- [Sales tax on energy delivery services](#)
- [Passenger car rental special tax increases](#)
- [Vending machine exemption amendments for candy, fruit drinks and soft drinks](#)
- [Amended exemption for cemetery monuments](#)
- [Advertising and sales tax collections](#)

The following sections of law were extended:

- [Electronic filing and electronic payments mandate extended](#)
- [Requirements for vendors participating in the segregated accounts program extended](#)
- [Exemption for transactions related to the Dodd-Frank Wall Street Reform and Consumer Protection Act extended](#)

We will be issuing separate guidance on the following changes:

- [Requirements for marketplace providers](#)
- [New supplemental tax on vapor products and new registration requirements](#)

Sales tax on energy delivery services

Beginning on June 1, 2019, the state and local sales and use tax exemption for the transportation, transmission, or distribution of gas or electricity when purchased from someone other than the vendor of the gas or electricity is repealed. This change applies to sales made and services rendered on or after that date regardless of when a service contract began.

As a result of this change, the services of transporting, transmitting, or distributing gas or electricity (T&D) are subject to both state and local sales tax when the sale of the commodity is also subject to state and local sales tax.

Sales of gas and electricity for commercial purposes are subject to both state and local sales tax and, therefore, the charges for T&D are also subject to state and local sales tax. Sales of residential energy continue to be exempt from state sales tax and, therefore, charges for T&D of residential energy are also exempt from state tax. Where sales of residential energy are subject to local sales tax, the charges for T&D related to those sales are also subject to local sales tax.¹

If a vendor's billing method is based on meter readings that do not coincide with the June 1, 2019 effective date, or a vendor is unable to update its billing system by that date, for the first sales tax quarterly return period after the effective date the Department will accept a

¹ See [Publication 718-R](#), *Local Sales and Use Tax Rates on Residential Energy*, for applicable rates.

reasonable method of ascertaining the tax due for the portion of a billing period occurring on and after June 1, 2019.

[Part H of Chapter 59 of the Laws of 2019; Tax Law §§ 1105(b)(1)(A), 1105-C, and 1210(a)(4)(xi); NY City Administrative Code §11-2001(b)(8)]

Passenger car rental special tax increases

On June 1, 2019, the special tax on passenger car rentals will increase as follows:

- within the Metropolitan Commuter Transportation District (MCTD) the tax rate increases from 11% to 12%
- outside the MCTD the tax rate increases from 6% to 12%

The MCTD includes New York City and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

The special tax on passenger car rentals is in addition to the state and local sales tax imposed on passenger car rentals.

The changes apply to passenger car rentals commencing on or after June 1, 2019, whether or not made under a prior contract. Where rentals are billed on a monthly, quarterly or other period basis the rate increase will apply to such period if more than half of the days included in such period are days after June 1, 2019.

[Part WW of Chapter 59 of the Laws of 2019; Tax Law §§ 1166-a, 1166-b and 1167]

Vending machine exemption amendments for candy, fruit drinks and soft drinks

Candy, fruit drinks and soft drinks sold for \$1.50 or less through a vending machine are exempt from sales tax.

The Tax Law was expanded to:

- add bottled water to the products that qualify for exemption; and
- increase the exemption amount to \$2.00 or less for candy, fruit drinks, soft drinks, and bottled water sold from a vending machine that accepts forms of payment other than coin or currency (whether or not it also accepts coin and currency).

For vending machines that only accept coin and currency, the exemption applies to candy, fruit drinks, soft drinks, and bottled water sold for \$1.50 or less.

These changes take effect June 1, 2019. The entire vending machine exemption will expire on May 31, 2021.

[Part CCC of Chapter 59 of the Laws of 2019; Tax Law § 1115(a)(1)(A) and (B)]

Amended exemption for cemetery monuments

The existing sales and use tax exemption for cemetery monuments is expanded to include tangible personal property that will become a physical component part of the monument.

This change takes effect June 1, 2019.

[Part FFF of Chapter 59 of the Laws of 2019; Tax Law § 1115(a)(44)]

Advertising and sales tax collections

Vendors are permitted to advertise, hold out, or state to a retail purchaser or to the public that the vendor will pay the sales tax on behalf of a purchaser, subject to the following conditions:

- they expressly state on every bill, memorandum, receipt or other statement of the price, amusement charge or rent paid or payable given to the purchaser, that they will pay the sales tax on behalf of the purchaser, and shall not indicate or imply that the transaction is exempt or excluded from tax; and
- every bill, memorandum, receipt or other statement of the price, amusement charge or rent paid or payable given to the purchaser shall separately state the amount of sales tax due and that the tax was not collected from such purchaser.

The amendments do not affect any additional compensating use tax liability that a customer may incur on uses of tangible personal property or services where the vendor has paid the sales tax on the customer's behalf.

Example: *you purchase merchandise in a locality in New York State with a lower tax rate than the rate where you live and use the merchandise. When you bring the merchandise home, you will owe tax for the **difference** between the rate in the locality of your home and the rate in the locality where you purchased the merchandise.*

These changes took effect on April 12, 2019.

[Part DDD of Chapter 59 of the Laws of 2019; Tax Law §§ 1132(a), 1133(d) and 1817(d)]

The following sections of law have been extended:

Electronic filing and electronic payments mandate

The electronic filing and electronic payment mandates established under Part U of Chapter 61 of the Laws of 2011 are extended to December 31, 2024.

[Part A of Chapter 59 of the Laws of 2019; Tax Law § 29]

Requirements for vendors participating in the segregated accounts program

Provisions in the Tax Law authorizing the Tax Department to impose certain requirements on vendors participating in segregated accounts program are extended through December 31, 2024.

[Part S of Chapter 59 of the Laws of 2019; Tax Law §§1137(e)(3) and 1134(a)(4)(A)]

Exemption for transactions related to the Dodd-Frank Wall Street Reform and Consumer Protection Act

Provisions in the Tax Law exempting from sales and use tax certain sales or services transacted between certain financial institutions and their subsidiaries are extended to June 30, 2021. As a result, such sales or services occurring pursuant to a binding contract entered into on or before June 30, 2021, will continue to be exempted beyond June 30, 2021, but in no case will the exemption apply after June 30, 2024.

[Part V of Chapter 59 of the Laws of 2019; §1 of Part UU of Chapter 59 of the Laws of 2015; Tax Law §1115(jj)]

We will be issuing separate guidance on the following changes:

Requirements for marketplace providers

Beginning June 1, 2019, marketplace providers must collect and remit the sales tax on taxable sales of tangible personal property that they facilitate for marketplace sellers.

[Part G of Chapter 59 of the Laws of 2019; Tax Law §§ 1101(e), 1131(1), 1132(l), 1133(f), 1136(a)(4) and 1142(15)]

New supplemental tax on vapor products and new registration requirements

New Article 28-C of the Tax Law establishes a 20% supplemental retail tax on vapor products. It also includes a registration and renewal requirement for vapor products dealers. Vapor products include noncombustible liquids and gels (with or without nicotine) that are manufactured into a finished product for use in an electronic cigarette, electronic cigar, vaping pen, or similar device.

This change takes effect on December 1, 2019.

[Part UU of Chapter 59 of the Laws of 2019; Tax Law Article 28-C; Public Health Law Article 13-F; State Finance Law § 92-dd(a)]

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.