Note: Beginning June 1, 2022, the Tax Law allows a credit or refund under certain conditions for sales taxes paid on commercial motor vehicle leases with terminal rental adjustment clauses (TRAC leases). For more information, see Sales tax refunds related to commercial motor vehicle leases with terminal rental adjustment clauses (Article 28).

This supplements the information in the section entitled **Computation of total monthly payments for leased vehicles primarily used in a business or trade more than 50% of the time**, on page 14 of the Publication.

Publication 839, *A Dealer's Guide to Sales and Use Taxes on Long-Term Motor Vehicle Leases in New York State*, begins on page 2 below.

Insert added on December 7, 2022.

NEW YORK STATE
Department of Taxation and Finance

Publication 839

A Dealer's Guide to Sales and Use Taxes on Long-Term Motor Vehicle Leases in New York State

Pub 839 (7/10)

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Introduction

This publication explains the rules for computing *State and local sales and use taxes* on long-term motor vehicle leases. Sales and use taxes are commonly referred to as *sales tax*; both terms will be used interchangeably in this publication.

A publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes to the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, and changes in Department policies could affect the validity of the information presented in this publication. Publications are updated regularly and are accurate on the date issued.

Definitions

For purposes of this publication:

Long-term lease means a lease that covers a period of one year or more. It also includes any lease for a period of less than one year that includes one or more options to renew or contains similar contract provisions which, if exercised, would make the total period of the lease one year or more.

Motor vehicle means a motor vehicle as defined in section 125 of the Vehicle and Traffic Law, with a gross vehicle weight of 10,000 pounds or less. The term *motor vehicle* includes any motorized vehicle operated or driven on a public highway. Cars, light trucks, vans, motorcycles, and motorbikes are examples of motor vehicles. For purposes of this publication, the following vehicles are not considered motor vehicles:

- electrically-driven mobility assistance devices operated or driven by a person with a disability;
- snowmobiles;
- all terrain vehicles (ATVs);
- fire and police vehicles (other than ambulances);
- farm tractors and other farm equipment used exclusively for agricultural purposes or for snow plowing; and
- self-propelled caterpillar or crawler-type equipment while operated on a construction site.

General

Section 1111(i) of the Tax Law provides special rules for computing and paying State and local sales and use taxes on long-term motor vehicle leases. In general, all receipts due or consideration given, or contracted to be given, for the leased motor vehicle for the entire period of the lease (including any option to renew or similar provision) are subject to sales tax at the inception of the lease, even if the payments are not required to be made at that time. The total sales tax due must be paid by and collected from the lessee on the date the first lease payment is due or the date the vehicle is registered with the New York State Department of Motor Vehicles (DMV), whichever is earlier.

Computing the tax

In the case of long-term motor vehicle leases, the **sum** of the following payments, fees, and charges due from the lessee is subject to sales tax, and the tax must be paid and collected on the date described above:

- any down payment, up-front payment, or due-on-signing payment;
- the total of the monthly (or other periodic) payments due for the entire term of the lease, including any option to renew (see *Monthly payments*, on page 7). (Also, special rules apply to leased vehicles that are primarily used in a business or trade. See *Computation of total monthly payments for leased vehicles primarily used in a business or trade more than 50% of the time*, on page 14.);
- acquisition fees, bank fees, certain documentation fees (see *Documentation fees*, on page 8), disposition fees, warranty fees, such as extended service programs and maintenance programs, transportation and destination charges, advertising charges, dealer preparation fees, and any other fees or charges that are charged at the start of the lease period, if the fee or charge is not already included as part of the monthly payment under the lease; and
- the amount of any rebate or incentive provided or reimbursed by the manufacturer or any other third party that is assigned or paid to the dealer and applied against the amount due under the lease, such as a factory rebate, first-time buyer incentive, college student incentive, or other similar rebate or payment.

The following charges and fees associated with a long-term motor vehicle lease are also subject to sales tax. However, the tax is due at the time the charge or fee is actually paid by the lessee:

- excess mileage or use charges;
- excess wear charges;
- damage, repair and similar charges;
- lease transfer or lease assumption fees;
- the charge to purchase the vehicle at the end of the lease term, if the lessee decides to purchase the vehicle; and

- any disposition fee or any other fee if the amount of the fee is charged at the end of the lease term.

The following charges, fees, and incentives are generally **not** subject to sales tax:

- vehicle registration and title fees if the amount charged by the dealer is the exact amount charged by DMV and the charge is not included in the monthly payment (see *Vehicle registration and title fees*, on page 8);

- certain documentation fees (see *Documentation fees*, on page 8);

- any security deposit that is refunded to the lessee at the end of the lease term (see *Security deposits*, on page 8);

- the charge for "*gap insurance*" if the charge is reasonable, separately stated, and not included in the monthly payment; and

- any rebates, discounts, or similar incentives provided by the vendor (usually the dealer/lessor) and not reimbursed by the manufacturer or any other third party.

Monthly payments

The calculation of the monthly lease payment is a business decision made by the dealer and may be based on several factors. These factors may include the following:

- the value of the vehicle being leased;

- the length of the lease term;

- the expected residual value of the leased vehicle;

- the value of any trade-in credit (discussed later);

- the time value of money;

- the creditworthiness of the customer;

- the dealer's profit;

- any additional charges; and

- any other factors deemed relevant by the dealer.

Based on their analysis of these factors, one dealer may be willing to lease a vehicle for $400 per month for 36 months, while another dealer may lease the same vehicle for the same lease term for a different monthly amount. Whatever amount a dealer decides on and agrees upon with the lessee is used to compute the total of the lease payments due over the term of the lease.

Vehicle registration and title fees

If a dealer obtains the vehicle's DMV registration or title documents for the lessee, and the dealer separately states the actual DMV vehicle registration and title fees on the lease document or other memorandum of the price given to the lessee, the fees would not be subject to sales tax.

These fees would also not be subject to tax if the dealer charges the lessee a separately stated, estimated amount (DMV fee deposit) for registration and title fees, does not include the deposit in the monthly payment, and later refunds to the customer the amount of the deposit that exceeded the exact DMV charge. However, if the dealer charges the lessee more than the amount charged by DMV, the excess amount is taxable. In addition, if the dealer builds the registration and title fees into the monthly payments due under the lease, the fees would be subject to tax.

Documentation fees

Documentation fees are fees charged by the dealer to prepare, on behalf of the purchaser/lessee, the paperwork necessary to obtain a title and/or registration for the vehicle. These fees are subject to sales tax unless both of the following conditions are met:

- The fee is separately stated in the lease or contract, the fee is reasonable, and it is not included in the monthly payment.
- The customer has the option to avoid paying the fee by preparing his or her own paperwork and taking the paperwork to DMV.

If a dealer is contractually obligated to the leasing company to ensure that the vehicle is properly registered to the lessee and titled to the leasing company, the lessee/customer may not have the option of preparing his or her own paperwork and taking it to DMV. In that case, the dealer's charges to the customer for documentation fees would be subject to tax.

Security deposits

A charge by the dealer for a refundable security deposit on a leased vehicle is considered collateral security and is not subject to sales tax. However, when the lessee returns the vehicle at the end of the lease, any portion of the deposit not returned to the lessee is subject to sales tax at that time.

Treatment of trade-ins

Trade-ins are treated differently in a lease situation than in an outright purchase situation. In the case of an outright purchase, the dealer will first determine the cost of the vehicle being purchased and add any taxable fees. The dealer will then reduce that total by the amount it is willing to allow as a trade-in allowance for the property the customer will trade in, and compute the sales tax due on the balance. However, when a customer trades in a vehicle as partial payment for the lease of a new vehicle, the dealer will determine the value of the vehicle being traded in, reduce the total lease price of the vehicle (capitalized cost) by the value of the property the lessee will trade in, and then re-compute the monthly lease payments based on the reduced capitalized cost. Alternatively, the dealer may choose to reduce the down payment or other charges due from the lessee in order to account for the value of the trade in. The sales tax is then computed by multiplying the total of the reduced amounts by the applicable tax rate. (See Example 6, on page 13, regarding how the sales tax is computed when the vehicle being traded in is subject to an outstanding loan.)

The trade-in allowance cannot be taken again as a credit against the total amount of lease payments after the monthly lease payment amount has already been reduced. To do so would result in the trade-in allowance being given effect twice, once when the dealer uses the allowance to reduce the capitalized cost of the vehicle and the monthly lease payments due based on the reduced capitalized cost, and again when the dealer credits the trade-in allowance against the total of the reduced monthly lease payments for purposes of determining the taxable amount due to the dealer for the leased vehicle. This is not allowable.

There may be instances where the amount of a vehicle trade-in allowance is less than the amount the customer owes on the vehicle being traded in (that is, the customer has negative equity in the vehicle). As a result, the dealer may increase the monthly lease payment to be paid for the new vehicle under the lease. In this instance, the increased monthly lease payment is used to compute the sales tax due on the lease payments. Accordingly, when the dealer accepts the trade-in vehicle as part payment for the leased vehicle, pays off the amount owed by the customer on the trade-in vehicle, and adds that payoff amount to the price of the vehicle being leased, the payoff amount is considered part of the price of the leased vehicle. This would increase the capitalized cost of the leased vehicle, and thus would be subject to tax.

Collecting and remitting tax

In a typical motor vehicle leasing transaction, the dealer negotiates the lease price of a vehicle with a prospective lessee. At the time the lease is executed, assume that the dealer holds title to the leased vehicle and is the original lessor under the lease. The dealer will accept the lessee's trade-in vehicle and use the trade-in allowance to reduce (or increase) the capitalized cost of the leased vehicle. At this time, the lessee will pay the dealer any up-front costs, including the first month's lease payment and the sales tax. Under these circumstances, the dealer, as lessor of the vehicle, is required to collect and remit the sales tax. The total sales tax due under the lease is due at the inception of the lease.

When the leasing acquisition is completed and the lessee takes possession of the vehicle, the dealer may sell its interest in the leased vehicle to a finance company and also assign the lease to the finance company. If that occurs, then any tax due after the lease and sale/assignment (for example, tax due on the lessee's payment of a lease transfer or lease assumption fee, or excess wear charges) must be collected and remitted by the finance company. The finance company, as owner of the leased vehicle and lessor under the lease, is also responsible for collecting and remitting the tax due if the lessee purchases the vehicle at the end of the lease. Therefore, any such finance company must register for sales tax purposes at least 20 days prior to commencing business in this State, and must keep records, file sales tax returns, and remit tax required to be collected. For more information about registering for sales tax purposes, see Publication 750, *A Guide to Sales Tax in New York State*.

Limitations on refunds and credits of sales tax paid on motor vehicle leases

Once a lease has been entered into and the customer has paid the tax due at the inception of the lease, no refund or credit of tax paid is allowed to either the dealer or the customer (except as explained below) if the lease is terminated early, even if the lease is terminated because the vehicle is destroyed in an accident. Nor is any refund or credit of tax allowable if the customer chooses not to exercise an option to renew the lease, even though the customer paid tax at the inception of the lease on the amount charged to purchase the option. Likewise, no refund or credit of tax is allowable if the customer fails to pay all of the lease payments to the dealer.

However, a customer may be entitled to a refund or credit of all or a portion of the tax paid on the lease of a motor vehicle where all or a portion of the capitalized cost of the vehicle is refunded to the customer by the vehicle manufacturer in accordance with the provisions of section 198-a or 198-b of the General Business Law (New Car / Used Car Lemon Laws). In these situations, **only** the customer is entitled to a refund or credit of the tax paid, and the customer must apply to the Department for any refund. Neither the vehicle manufacturer nor the dealer is entitled to a refund or credit of the tax paid by the customer.

Determining the tax rate

The rate of tax to be paid and collected on leases of motor vehicles is the rate in effect in the locality (county or city) where the lessee resides at the time the tax is due, not the locality where the dealership or finance company is located. Therefore, when filing its sales tax return, the dealer or finance company should report tax collected from the lessee under the lease, or any other taxable transaction related to the lease, as a sale in the locality where the lessee resides.

The town or city indicated in the mailing address of the lessee by itself is not always a reliable indicator of the actual county or city where the lessee resides. Instead, dealers should use the *Sales Tax Jurisdiction and Rate Lookup* on the department's Web site to determine the proper locality and rate of tax.

Examples

The following are examples of some common fact patterns involving the leasing of motor vehicles.

Example 1

A dealer agrees to lease a vehicle to a customer. The dealer determines that the customer will have a lease payment of $550 per month for a period of 36 months. All charges by the dealer, including amounts charged by DMV, are included in the $550 monthly payment. The State and local combined sales tax rate in the county where the customer resides is 8%. Sales tax due on this lease is computed as follows:

monthly payment amount	*$ 550*
months of lease term	*x 36*
total amount subject to tax	*$19,800*
tax rate - 8%	*x .08*
tax due at lease inception	*$ 1,584*

Example 2

A dealer agrees to lease a vehicle to a customer who will make a $3,000 down payment. After applying the customer's down payment, the dealer determines that the customer's monthly lease payment will be $475 for 36 months. All charges by the dealer, including amounts charged by DMV, are included in the $475 monthly payment. The combined sales tax rate in the county where the customer resides is 8%. Sales tax due on this lease is computed as follows:

monthly payment amount	*$ 475*
months of lease term	*x 36*
total lease payment amount	*$17,100*
down payment	*+ 3,000*
total amount subject to tax	*$20,100*
tax rate - 8%	*x .08*
tax due at lease inception	*$ 1,608*

Example 3

A dealer agrees to lease a vehicle to a customer. The customer is trading in a vehicle for which the dealer will allow a trade-in allowance of $5,000. The customer has no outstanding loan on the trade-in vehicle. The customer makes a cash payment of $1,000 and also receives a $1,500 manufacturer's rebate.

The dealer is charging an acquisition fee of $700, a documentation fee of $200, a DMV fee deposit of $100 and a disposition fee of $500. The dealer will refund to the customer any portion of the $100 deposit that exceeds the actual DMV charges. The acquisition fee and disposition fee will be *included in determining the monthly payment. The documentation fee and DMV fee deposit will be covered by the cash payment, and the remaining cash payment ($700) will be used as a down payment to reduce the monthly payments. The documentation fee does not meet the conditions to be exempt from sales tax, as previously described. After taking into account these and other factors, the dealer and the customer agree to a monthly payment of $550 for a term of 36 months. The combined sales tax rate in the county where the customer resides is 8%. Sales tax due on this lease is computed as follows:*

monthly payment amount	*$ 550*
months of lease term	*x 36*
total lease payment amount	*$19,800*
plus documentation fee	*+ 200*
plus down payment amount	*+ 700*
plus rebate amount	*+ 1,500*
total amount subject to tax	*$22,200*
tax rate - 8%	*x .08*
tax due at lease inception	*$ 1,776*

Example 4

A dealer agrees to lease a vehicle to a customer. The customer is trading in a vehicle for which the dealer will allow a trade-in allowance of $10,000. The customer has no outstanding loan on the trade-in vehicle. After factoring in the $10,000 trade-in allowance, the dealer agrees to lease the vehicle to the customer for $400 per month for a term of 36 months. All other fees and charges made by the dealer, including DMV fees, are also included in the $400 monthly payment. The combined sales tax rate in the county where the customer resides is 8%. Sales tax due on this lease is computed as follows:

monthly payment amount	*$ 400*
months of lease term	*x 36*
total amount subject to tax	*$14,400*
tax rate - 8%	*x .08*
tax due at lease inception	*$ 1,152*

Example 5

A dealer advertises a vehicle that can be leased for $350 per month for a term of 36 months. In order to obtain the $350 monthly payment amount, a customer is required to make an up-front payment of $4,000, which is the amount charged by the dealer for the down payment and acquisition and disposition fees.

A customer agrees to lease the vehicle for $350 per month and will trade in a vehicle as part of the transaction. The dealer allows a trade-in allowance of $3,000 for the customer's vehicle, which will be applied against the *up-front payment amount of $4,000. The customer will make a $1,000 cash payment for the remaining down payment due, and a cash payment of $120 for a DMV fee deposit. The dealer has separately stated the DMV fee deposit on the lease document and will refund to the customer any portion of the $120 deposit that exceeds the actual DMV charge. The combined sales tax rate in the county where the customer resides is 8%. Sales tax due on the lease is computed as follows:*

Amount subject to tax on up-front payment amount:

up-front payment amount	*$ 4,000*
less trade-in credit	*- 3,000*
amount subject to tax	*$ 1,000*

Amount subject to tax on monthly lease payment:

monthly payment amount	*$ 350*
months of lease term	*x 36*
total lease payment amount	*12,600*
plus amount subject to tax on up-front payment	*+ 1,000*
total amount subject to tax	*$13,600*
tax rate - 8%	*x .08*
tax due at lease inception	*$ 1,088*

Example 6

A dealer agrees to lease a vehicle to a customer. The customer is trading in a vehicle worth $10,000 which is subject to a loan with an outstanding balance of $4,000. The dealer will accept the trade-in vehicle subject to the loan and pay off the $4,000 balance, leaving the customer with a trade-in allowance of $6,000. After factoring in the $6,000 trade-in allowance, the dealer agrees to lease the vehicle to the customer for $450 per month for a term of 36 months. In addition, all other fees and charges made by the dealer were included in determining the $450 monthly payment. The combined sales tax rate in the county where the customer resides is 8%. Sales tax due on this lease is computed as follows:

monthly payment amount	*$ 450*
months of lease term	*x 36*
total amount subject to tax	*$16,200*
tax rate - 8%	*x .08*
tax due at lease inception	*$ 1,296*

Example 7

A dealer would ordinarily lease a particular vehicle for $420 per month. However, a customer is trading in a vehicle she owns with a trade-in value of $10,000, on which the customer still owes $12,000. The dealer agrees to *accept the trade-in vehicle and pay off the customer's balance due of $12,000. The dealer will add the $2,000 of negative equity in the trade-in vehicle to the amount used to determine the monthly payment. In addition, the customer requests that all fees and other dealer charges be included in determining the monthly payment. The term of the lease is 36 months.*

After taking into account the $2,000 of negative equity in the trade-in vehicle and the other fees and charges, the dealer increases the monthly lease payment amount to $500. Sales tax due on this lease is computed as follows:

monthly payment amount	*$ 500*
months of lease term	*x 36*
total amount subject to tax	*$18,000*
tax rate - 8%	*x .08*
tax due at lease inception	*$ 1,440*

Computation of total monthly payments for leased vehicles primarily used in a business or trade more than 50% of the time

There is a special rule for computing the amount of the total monthly lease payments subject to sales tax at the inception of certain long-term motor vehicle leases where more than 50% of the vehicle's use is intended to be in the lessee's business or trade (for example, a fleet lease).

The special rule applies only if the following conditions are met:

- the lease includes an indeterminate number of options to renew or other similar contract provisions or the lease includes 36 or more monthly options to renew beyond the initial term of the lease, and

- the lease agreement contains a separate written statement, signed by the lessee, under which the lessee certifies under penalty of perjury that the lessee intends that more than 50% of the vehicle's use will be in a business or trade of the lessee.

If the special rule applies, the total of all the payments due for the first 32 months of the lease, or for the period of the initial lease term, if longer than 32 months, is the total of the monthly payment subject to tax at the inception of the lease. The tax must be computed on that total and paid and collected at that time. The payment under each option to renew or combination of options exercised after the first 32 months, or after the initial lease term if longer, is also subject to tax. However, tax on these payments is paid and collected on the date that each subsequent lease payment is required to be made.

Example 8

A taxi company (lessee) enters into a fleet lease agreement to lease vehicles to be used as taxis for its business. The agreement provides that the lessee must lease each vehicle for a term of more than one year, after which time *the lessee has an indeterminate number of options to renew the lease on a monthly basis. The lease agreement contains a separate written statement signed by the lessee under which the lessee certifies, under penalty of perjury, that the vehicles will be used in its business more than 50% of the time. Therefore, the initial term of the lease is deemed to be 32 months.*

The lessee leases each vehicle for $450 per month. Any other fees or charges by the dealer are included in the $450 payment. The combined sales tax rate in the county where the lessee does business is 8%. Sales tax due on each lease is computed as follows:

Initial lease term (32 months)

monthly payment amount	*$ 450*
months of initial lease term	*x 32*
total initial amount subject to tax	*$14,400*
tax rate - 8%	*x .08*
tax due at lease inception	*$ 1,152*

Each month after initial 32 months

monthly payment amount	*$ 450*
tax rate - 8%	*x .08*
tax due when each lease payment is due	*$ 36*

Dealer financing of the sales tax

In some instances, the lessee may want to finance the tax due at the time of entering into the lease. In this case, the lessee may ask the dealer/lessor to lend the lessee an amount equal to the tax due on the lease and to add the amount of that loan into the total to be paid under the lease. In effect, the lessor would lend the lessee an amount equal to the tax due and then build repayment of this loan into the lease payments due under the lease.

If the dealer/lessor is willing to lend the amount of tax due to the lessee, it will have to re-compute the total amount of the monthly lease payments and thus the total amount due under the lease, in order to recover the principal amount of the loan, plus any interest on that principal. As a consequence of the dealer/lessor increasing the amount of the monthly lease payments to recover the money loaned (plus any interest), the dealer/lessor will also have to increase the amount of sales tax due on the increased lease payments. This will result in a higher tax due than if the lessee paid the tax in full at the time of entering into the lease.

Regardless of how the dealer re-computes the lease payments to recover the money lent to the lessee, the dealer/lessor is still required to remit tax due under the lease based on the full amount of the monthly payments, including the increase resulting from the loan. One way to compute this mathematically is to use the following example that “grosses up” the lease payments to include the tax due, based on the applicable State and local tax rate. Whether the dealer/lessor uses the method in Example 9 or uses another method to compute the lease payment, the dealer/lessor must always be sure to remit tax on the total of the payments due under the lease, however those payments were computed.

Example 9

A dealer agrees to lease a vehicle to a customer who has no trade-in and is making no down payment. All fees and other charges made by the dealer are included in the monthly payments due under the lease. In addition, the dealer will loan the customer an amount equal to the sales tax and will recompute the amount of the monthly lease payment to include repayment of the loan. Before taking the loan into account, the dealer determined that the customer's monthly lease payment for the vehicle would be $500 for 36 months, resulting in total payments of $18,000. The combined sales tax rate in the county where the customer resides is 8%. If the customer were to pay the sales tax due in cash at the inception of the lease, the tax due would be $1,440 ($500 x 36 months x 8%). However, since the dealer is loaning the customer money for the sales tax, the dealer will increase the amount of the monthly payment to include repayment of the loan (including any interest on the loan principal). This will result in a higher monthly lease payment and a greater amount of tax due. In this situation, one method to calculate the total amount of the lease payments on which tax is due and the amount of tax due on those increased payments, is shown on the worksheet below.

Worksheet

1. Enter 1.00	*1.00*
2. Enter the combined state and local tax rate as a decimal	*.08*
*3. Subtract line **2** from line **1***	*.92*
*4. Divide line **1** by line **3** and round the total to 3 decimal places*	*1.087*
5. Enter the total taxable amount of the lease	*$18,000*
*6. Multiply line **5** by the percentage on line **4***	*$19,566*
*7. Multiply line **6** by the tax rate decimal on line **2***	*$ 1,565*

*The amount on line **7** is the sales tax due on the lease if the dealer is not charging interest or a finance charge on the amount of the loan in respect to the sales tax. If the dealer chooses to charge interest or a finance charge on the money loaned for the sales tax, continue with line **8**.*

*8. Enter the total amount of the interest or finance charge the dealer will charge on the amount on line **7***........................*	*$ 149*
*9. Enter the amount from line **5**...*	*$18,000*
*10. Add lines **8** and **9**...*	*$18,149*
*11. Enter the amount from line **4**...*	*1.087*
*12. Multiply line **10** by line **11**...*	*$19,728*
*13. Multiply line **12** by the tax rate decimal on line **2**................*	*$ 1,578*

*The amount on line **13** of the above worksheet is the sales tax due on the lease when interest or a finance charge is imposed on the money loaned for the sales tax.*

** (For example, the interest on a loan of $1,565 (the amount of the sales tax) at 6% interest for 36 months would equal $149.*

A blank copy of a worksheet for dealers to use is contained in Appendix A on page 20 of this publication.

It is important to remember that the sales tax due on the receipts from a long-term lease is based on the total of the payments due under the lease ([monthly payment x number of months in lease term] + other payments subject to tax). It is up to the dealer/lessor to decide the amount of the monthly payment, taking into account all of its costs, the time value of money, profit, and any other factors it wants to consider. Once the dealer determines that amount, the dealer can calculate the sales tax due by multiplying the total of the payments due under the lease, plus other taxable amounts, by the applicable combined State and local tax rate. The dealer must always remit that amount of tax with its sales tax return.

Motor vehicle leases entered into outside of New York State

If a lessor and lessee enter into a motor vehicle lease outside of New York State and the lessee later brings the vehicle into New York State, the payments remaining on the lease are subject to New York State and local sales and use taxes under certain circumstances. The remaining payments are subject to sales tax if the lessee either was a New York resident at the time of entering into the lease or becomes a resident of New York and brings the vehicle into New York.

If there is less than one year remaining on the lease term after the vehicle is brought into the State, sales tax would be due on each monthly lease payment at the time the lessee makes payment to the lessor. The lessor, if not already registered, is required to register for sales tax purposes, as explained below, and must collect tax on each of those remaining lease payments.

If there is more than one year remaining on the lease term after the vehicle is brought into the State (and the lessee is, or has become, a resident), then the "remaining lease period" would be a long-term lease and sales tax would be due on the total of the remaining monthly lease payments as described earlier in this publication (see *General*, on page 5).

A lessee is considered a resident of New York if:

- the lessee has a permanent place of abode in New York State; or
- the lessee is engaged in carrying on in New York State any employment, trade, business, or profession in which the vehicle will be used in this state. (For information about long-term motor vehicle leases by nonresidents, see *Certain long-term motor vehicle leases by nonresidents not subject to tax*, below.)

If the lessor retains an ownership interest in the vehicle and is not registered for sales tax purposes at the time the lessee brings the vehicle into the state, the lessor must register for sales tax purposes by applying online using the *Online Services* at *www.tax.ny.gov*, or by filing Form DTF-17, *Application to Register for a Sales Tax Certificate of Authority*, within 30 days after the first day the leased vehicle is brought into New York by the lessee, and must collect and remit sales tax due to New York State on the remaining lease payments. However, the lessee may be able to claim a credit for any sales or use taxes paid to the state in which the lease was originally entered into, if that state allows a corresponding credit for tax paid in this state.

Certain long-term motor vehicle leases by nonresidents not subject to tax

New York State and local sales taxes do not apply to the long-term lease of a motor vehicle, even if the lessee enters into the lease and takes physical possession of the vehicle in New York State, if at the time of taking delivery, all of the following conditions are met:

- the lessee is a nonresident of New York State;
- the lessee has no permanent place of abode in New York State;
- the lessee is not engaged in carrying on in New York State any employment, trade, business, or profession in which the vehicle will be used in this state;
- the dealer does not issue to the lessee a New York State temporary or other similar certificate of registration as provided in section 420 or 420-a of the New York Vehicle and Traffic Law;
- the lessee does not register the vehicle in New York State prior to registering the vehicle in another state or jurisdiction; and
- prior to the time the lessee takes delivery of the vehicle, the lessee gives the dealer a properly completed Form DTF-820, *Certificate of Nonresidency of New York State and/or Local Taxing Jurisdiction*.

A dealer who obtains Form DTF-820 from the lessee prior to the time the vehicle is delivered to the lessee, and who retains Form DTF-820 and makes it available for inspection by the Tax Department, will not be liable for failing to collect sales tax on the lease transaction, provided the dealer does not know that the document issued by the lessee is false.

Appendix A

Worksheet to compute sales tax when the dealer loans the money for the sales tax

1. Enter 1.00 .... 1.00
2. Enter the combined state and local tax rate as a decimal .... ______
3. Subtract line **2** from line **1** .... ______
4. Divide line **1** by line **3** and round the total to 3 decimal places .... ______
5. Enter the total taxable amount of the lease .... ______
6. Multiply line **5** by the percentage on line **4** .... ______
7. Multiply line **6** by the tax rate decimal on line **2** .... ______

Are you charging interest or a finance charge on the loan of the sales tax money?

☐ No. The amount on line **7** is the sales tax due.

☐ Yes. Continue with line **8**.

8. Enter the total amount of the interest or finance charge the dealer will charge on the amount on line **7** .... ______
9. Enter the amount from line **5** .... ______
10. Add lines **8** and **9** .... ______
11. Enter the amount from line **4** .... ______
12. Multiply line **10** by line **11** .... ______
13. Multiply line **12** by the tax rate decimal on line **2** .... ______

The amount on line **13** is the sales tax due on the lease when interest or a finance charge is imposed on the money loaned for the sales tax.

Notes

New York State Tax Department

Online Services

Create an Online Services account and log in to:

- make payments
- file certain returns and other tax forms
- view your account and filing information
- change your address
- receive email notifications
- respond to bills and notices

Access is available 24 hours a day, 7 days a week (except for scheduled maintenance).

www.tax.ny.gov

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Need help?

Visit our Web site at ***www.tax.ny.gov***
- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Sales Tax Information Center:	(518) 485-2889
To order forms and publications:	(518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.