



Amending and Filing Sales and Use Tax, Adult-Use Cannabis Products Tax, and Wireless Communications Surcharge Returns

For filing periods beginning on or after December 1, 2024, any person required to collect tax under Tax Law Article 28 (Sales and Compensating Use Taxes) may, in certain situations, amend a previously filed return or file an original return after a notice of determination is issued.* These provisions apply to all taxes and fees administered under Tax Law Article 28, including:

- sales and use tax;
- special tax on passenger car rentals;
- special tax on peer-to-peer car sharing;
- paper carryout bag reduction fee;
- supplemental tax on vapor products;
- waste tire management fee;
- adult-use cannabis products tax; and
- wireless communications surcharge.

Amending a return

Any person required to collect tax is allowed to amend previously filed returns if the result does not reduce or eliminate a *past-due tax liability* related to that filing period. *Past-due tax liability* means any tax liability that has become fixed and final where the person required to collect tax no longer has any right to administrative or judicial review.

However, if the *past-due tax liability* was self-reported on a return by the person required to collect tax, an amended return may be filed that reduces or eliminates such liability within 180 days of the due date of the return.

Where there is no *past-due tax liability* and the amended return results in an overpayment, a person required to collect tax can claim a credit or refund within three years from the date the tax was due, or two years from the date the tax was paid, whichever is later.

The Tax Department may assess tax, penalty, and interest, including the recovery of a previously paid refund, attributable to a change or correction on a return, within three years after the amended return was filed.

* Part H of Chapter 59 of the Laws of 2024; Tax Law Article 28, Tax Law §§ 1136(d-1) and 1145(a)(8)

Filing a return after receiving a notice of determination of tax due

If the Tax Department issues a notice of determination of tax due because a return was not filed, an original return may be filed within 180 days from the mail date of the notice of determination. Filing a missing return will not affect any penalty or interest that has accrued due to failure to timely file the original return.

Penalties

Effective April 20, 2024, for sales and use tax and wireless communications surcharge returns, and December 1, 2024, for adult-use cannabis products tax returns, any person who willfully files a return that contains false information to reduce or eliminate a liability will be subject to a penalty up to \$1,000 per return in addition to any other penalty provided by law.

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.