

REREGISTRATION OF SALES
TAX VENDORS

The Tax Department has initiated a program to reregister all sales tax vendors who hold a validated Certificate of Authority to collect New York State sales and use taxes. This registration renewal is authorized pursuant to The Omnibus Tax Equity and Enforcement Act of 1985 and will affect those vendors who have had their Certificate of Authority for three years or longer. Reregistration will be required for vendors who must obtain a new Certificate of Authority because their current certificate is due to expire. While a Certificate of Authority does not contain an expiration date, the Tax Department has been granted authority under the Tax Law to set an expiration date for any Certificate of Authority issued. However, an expiration date will not be set unless the Certificate of Authority has been in effect for a period of at least three years.

Since there are over 500,000 vendors who are currently registered with the Tax Department, it is expected that reregistration of all vendors will take a considerable length of time. Vendors chosen for reregistration will be selected at random; therefore, all vendors who have been registered for more than three years should be prepared for registration renewal at any time.

A vendor selected for reregistration will receive a notice from the Tax Department stating when its current Certificate of Authority will expire. This notice will be mailed to the vendor at least 120 days prior to the date of expiration indicated in such notice. Not less than 90 days prior to the expiration date, a Sales Tax Registration Renewal Packet will be sent to the affected vendor. This packet will contain a registration renewal application and instructions for the completion of the application. The Renewal Application, Form PR-27, should be completed and returned to the Tax Department within 30 days to insure that a new Certificate of Authority is issued before the current certificate expires. If the completed renewal application is not received by the department prior to the 60th day before the scheduled expiration of the current Certificate of Authority, a reminder of such expiration will be sent to the vendor by registered or certified mail.

The vendor's current Certificate of Authority will expire on the date specified unless a properly completed renewal application has been filed before that date. If a renewal application is timely filed, the vendor's current certificate will remain in effect until the Department issues a new Certificate of Authority, or until the Department has sent the applicant a notice of proposed refusal to issue a Certificate of Authority and such refusal has become final (more information on registration refusal appears later in this memorandum). Any vendor whose Certificate of Authority has expired, either because a registration renewal application was not filed or because a certificate was not issued on the basis of a notice of refusal, will be prohibited from engaging in any business in this state for which a Certificate of Authority is required. A vendor engaged in business activities that require a Certificate of Authority, but who does not have a validated certificate, is subject to fines and may be subject to the criminal penalties provided for in section 1817 of the Tax Law. Vendors who have

their Certificates of Authority renewed will not be subject to another renewal for at least three years. The new Certificate of Authority will not contain an expiration date, but will be subject to the same renewal procedures when reregistration is again required.

During the renewal process, the Department may refuse to issue a new Certificate of Authority to any vendor if the Department finds that:

- 1) The applicant has not paid in full any tax that the Tax Department previously determined to be due from the applicant, unless the applicant timely filed a petition to have the tax redetermined and such proceedings for redetermination of the tax are still in progress; or
- 2) An officer, director, partner or employee of the applicant has not paid in full any sales or use tax that the Tax Department previously determined to be due from the officer, director, partner or employee in connection with his/her capacity as a person required to collect tax for the applicant, unless the officer, director, etc. timely filed a petition to have his or her tax redetermined and such proceedings for redetermination of the tax are still in progress; or
- 3) An officer, director, partner or employee of the applicant has not paid in full any sales or use tax that the Tax Department previously determined to be due from the officer, director, partner, or employee in connection with his/her capacity as a person required to collect tax for, or on behalf of any vendor other than the applicant, unless the officer, director, etc., timely filed a petition to have his or her tax redetermined and such proceedings for redetermination of the tax are still in progress; or
- 4) The applicant has been convicted of a crime under the Tax Law within one year prior to the date on which the certificate of registration is filed; or
- 5) An officer, director, partner or employee of the applicant has been convicted of a crime under the Tax Law within the one-year period prior to the date on which the certificate of registration is filed, if such crime was in connection with either a) his/her capacity as a person required to collect tax for the applicant, or b) his/her capacity as a person required to collect tax on behalf of a vendor other than the applicant; or
- 6) A shareholder who owns more than fifty percent of the number of shares of voting stock of a corporate applicant was also an owner of more than fifty percent of the stock of another corporation at the time the other corporation had any tax determined to be due by the Tax Department and that tax has not been paid in full unless the other corporation timely filed a petition to have the tax redetermined and such proceedings for redetermination of the tax are still in progress; or

- 7) A shareholder who owns more than fifty percent of the number of shares of voting stock of a corporate applicant was also an owner of more than fifty percent of the stock of another corporation at the time the other corporation was convicted of a crime under the Tax Law, but only if such conviction was within the one-year period prior to the date the application for registration is filed; or
- 8) A Certificate of Authority which was previously issued to the applicant had been suspended or revoked within one year prior to the date the application for registration is filed.

In the event the Department finds that one or more of the above conditions exist, the applicant will receive a notification of proposed refusal to issue a Certificate of Authority. Such notification will be sent to the applicant by certified or registered mail and will state the basis for the proposed refusal. The notice of proposed refusal will also inform the applicant of its rights and the procedures to protest such refusal. An applicant who does not timely act upon the remedies available will not be issued a Certificate of Authority and therefore may not conduct any business in this state for which a Certificate of Authority is required.

To protest a notice of proposed refusal, the applicant must file a petition for hearing or must request a conciliation conference within ninety days from the date of such notice. When a vendor timely petitions for a hearing or conciliation conference to review a notice of proposed refusal, the vendor's Certificate of Authority will not expire until a final determination regarding the proposed refusal is rendered. A decision by a Conciliation Conferee, Administrative Law Judge or the Tax Appeals Tribunal which has become final upholding the Department's notice of proposed refusal will result in the immediate expiration of the vendor's Certificate of Authority. Once a Certificate of Authority has expired, that certificate must be returned to the Tax Department. If the expired certificate has been lost, stolen, destroyed or is otherwise unreturnable, the owner, partner or responsible officer of the vendor who was issued such certificate is required to notify the Sales Tax Renewal Unit in writing, setting forth the specific reasons why the certificate cannot be returned.

A business selected for reregistration that is not required, or no longer required to hold a Certificate of Authority should complete and return the Certificate of Termination, Form PR-271.9, that is also included in the renewal packet. This form is to be submitted if a vendor no longer needs to be registered for any of the reasons listed on the form. Where a business has been sold or discontinued, a final return is required to be filed which includes the last day of business. The Certificate of Authority in both instances must be returned.