

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-91 (1) S
Sales Tax
May 15, 1991

1990 AMENDMENTS TO THE SALES TAX LAW

ARTICLE 28

<u>Tax Law Section</u>	<u>Chapter & Bill Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1101(b)(4)	190-167		<u>Retail Sale - Defined.</u> As amended, provides that tangible personal property purchased for use by a person in providing services subject to tax under paragraphs (7) and (8) of section 1105(c) of the Tax Law (interior decorating and design and protective and detective services) are not retail sales if the property so purchased becomes a physical component part of the property upon which such services are performed or the property is actually transferred to the customer in conjunction with performing such service. Effective June 1, 1990.
1101(b)(8)	190-168 & 169	TSB-M 90(10)S	<u>Vendor - Defined.</u> As amended, reletters clauses (F) and (G) of subparagraph (i) to be clauses (G) and (H) respectively; and adds a new clause (F) which provides that persons making sales of taxable property who retain an ownership interest in such property are sales tax vendors required to collect tax if that property is brought into this state by a resident or by a person who becomes a resident of this state or if the purchaser uses that property in any manner in carrying on any employment, trade, business or profession in this state. Effective June 1, 1990. A new subparagraph (ii) was also added which provides that, for purposes of the tax

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
			imposed under section 1105(c)(9) on certain entertainment and information services a person or an affiliate or agent of such person billing customers for a vendor of such taxable service is a sales tax vendor. Effective September 1, 1990.
1104	190-170	N-90-13 TSB-M	<u>Imposition - Special Hotel Occupancy Tax</u> As added, imposes 91(3)San additional tax of 5% upon every charge for occupancy of a room or suite of rooms in a hotel where such charge for occupancy is at the rate of \$100.00 or more per day. Effective June 1, 1990.
1105(c)(3)	190-171		<u>Technical Correction</u> As amended, renumbers subparagraph (vii), relating to railroad rolling stock, to (viii). Effective June 1, 1990.
1105(c)(5)	190-172	N-90-17 TSB-M 91(4)S	<u>Exclusion From Tax Eliminated-Interior Cleaning Services</u> As amended, eliminates the exclusion from sales tax for interior cleaning and maintenance services performed on a regular contractual basis for a term of not less than thirty days. Effective June 1, 1990.
1105(c)(6)	190-173	N-90-21	<u>Imposition - Parking Garaging and Storing Motor Vehicles</u> As added, imposes a sales tax on the services of parking, garaging and storing motor vehicles. Effective June 1, 1990.

*For further information see applicable memoranda, notice or publication.

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1105(c)(7)	190-173	N-90-16	<u>Imposition - Interior Decorating and Design Services</u> As added, imposes a sales tax on the services of interior decorating and design (i n c l u d i n g interior decorating and design services performed by licensed architects and engineers) when related to property located in New York or when delivered into New York. Effective June 1, 1990.
1105(c)(8)	190-173	N-90-20	<u>Imposition - Protective and Detective Services</u> As added, imposes a sales tax on protective and detective services, including services provided by or through alarm or protective systems. Protective services include protection against burglary, theft, fire, water damage and malfunction of industrial processes. Other services specifically taxed under this section include armored car service, guard, patrol and watchman services except port watchman services performed by a port watchman licensed by the Waterfront Commission of New York harbor. Effective June 1, 1990.
1105(c)(9)	190-174	N-90-44 TSB-M 90(10)S	<u>Imposition - Entertainment and Information Services</u> A s a d d e d , imposes a sales tax on entertainment and information services that are provided, furnished or delivered by means of telephony or telegraphy or telephone or telegraph service. Effective September 1, 1990.

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1105(c) Closing Paragraph	190-175 & 176		<u>Exclusion From Tax - Employee Wages</u> As amended, extends the existing statutory rule that wages paid to employees who perform services of the types enumerated in sections 1105(c) are not receipts subject to tax, to include the services enumerated in the newly added paragraphs (6) through (9) of 1105(c). The exclusion for services enumerated in paragraphs 1105(c)(6) through (8) is effective June 1, 1990; the exclusion for (c)(9) services is effective September 1, 1990.
1106(i)	190-177	N-90-17 TSB-M 91(4)S	<u>Transitional Provisions- Interior Cleaning</u> As added provides that charges attributable to interior cleaning and maintenance services, and the services enumerated in paragraphs (6) through (8) of section 1105(c) performed on or after June 1, 1990 are subject to sales tax even though a contract for such services was entered into before June 1, 1990. Effective June 1, 1990.
1106(j)	190-177	N-90-13 TSB-M 91(3)S	<u>Transitional Provisions- Special Hotel Occupancy Tax</u> As added, provides that charges for hotel occupancy occurring on or after June 1, 1990 are subject to the special occupancy tax even if the charges for

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
			such occupancy were paid pursuant to a prior contract where the charge for occupancy is paid on a term basis, the charge is to be apportioned on the basis of the ratio of the number of days falling on and after June 1, 1990 to the total number of days covered by the occupancy period. Effective June 1, 1990.
1106(k)	190-178	N-90-44 TSB-M 90(10)S	<u>Transitional Provisions- Entertainment and Information Services.</u> As added, provides that information or entertainment services subject to tax under section 1105(c)(9) are taxable beginning September 1, 1990 even if such services were contracted for prior to September 1, 1990. Effective September 1, 1990.
1107(b)(8)	190-179		<u>Temporary Assistance Taxes for Cities of One Million or More.</u> As added, provides that tax imposed pursuant to section 1107(a) of Article 28 shall not be imposed on interior cleaning and maintenance services performed on a regular contractual basis for a term of not less than thirty days, interior decorating and design services, or protective and detective services to the extent such services are subject to tax pursuant to section 1212A of Article 29 of the Tax Law, or on the service of parking, garaging or storing motor vehicles. Effective June 1, 1990.

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1110	190-180		<u>Use Tax- Imposition</u> As amended, adds interior decorating and design services (1105(c)(7)) and protective and detective services (1105(c)(8)) to the types of services which are subject to use tax. It also provides that tangible personal property upon which interior decorating and design services are performed are subject to use tax if such property is not resold. Effective June 1, 1990.
1111(c)	190-181	N-90-12	<u>Special Rules for Computing Receipts Subject to Tax.</u> As amended, provides that the rules concerning the amount and timing of the tax with respect to certain leased property are contained in subdivision (i) of this section. Effective June 1, 1990.
1111(i)	190-181	N-90-12	<u>Special Rules for Computing Receipts Subject to Tax.</u> As added, provides that for purposes of the calculation and timing of the sales and use taxes on certain leases of motor vehicles, boats and non- commercial aircraft such tax is to be computed on the total amount of payments due under the lease, option to renew or similar provision, or combination of them. The tax is due and payable to the Tax Department as of the date of the first payment made under the lease or at the time the vehicle is registered with the Department of Motor Vehicles, whichever is earlier.

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
			<p>This up-front payment of tax applies to leases with a term of one year or more, lease renewal options with a term of one year or more or similar contractual provisions which if exercised would extend the term of the lease to one year or more or any combination of them. It also applies to leases with a term of less than one year if the exercise of options to renew or similar provisions would extend the term of the lease to one year or more. This rule is restricted to leases of motor vehicles having a gross vehicle weight of 10,000 pounds or less, vessels, including motors and trailers leased in conjunction with such vessels and noncommercial aircraft having a seating capacity of less than 20 passengers and payload capacity of less than 6,000 pounds. Effective June 1, 1990.</p>
111S(d)	190-182		<p><u>Exemptions</u> As amended, adds interior decorating and design services and protective and detective services to the types of services that are exempt from tax if the tangible personal property upon which such services are performed is delivered to the purchaser outside this state for use outside this state. Effective June 1, 1990.</p>

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1115(i)	459-2		<u>Exemption - Shopping Papers</u> As amended, eliminates references to specific publications which were cited as examples of shopping papers. Effective August 10, 1990.
1119(c)	190-183		<u>Refunds and Credits</u> As amended, allows a refund or credit of sales or use tax paid with respect to tangible personal property if such property is later used in performing a service subject to tax under section 1105(c)(7) (interior decorating and design) or 1105(c)(8) (protective and detective), provided such property becomes a physical component part of the property on which such service was performed or is actually transferred to the customer in conjunction with the performance of such service. Effective June 1, 1990.
1131(4)	190-184		<u>Definitions - Property and Services the Use of Which is Subject to Tax</u> As amended, adds interior decorating and design services and protective and detective services to those services to be included in the above stated definition when such services are rendered to a person within the state; whether or not such services are rendered from or at a location within the state. A new paragraph (d) was added to this section which provides that all property sold by a vendor described in section 1101

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
			(b)(8)(i)(F) (ownership interest in property brought into this state, see Page 1 of this memorandum) who purchases such property at retail, whether or not the sale is made within the state, are subject to tax. Effective June 1, 1990.
1134(a)	190-187		<u>Registration</u> As amended, provides that any person who is a vendor as described in section 1101(b)(8)(i)(F) must file a certificate of registration within 30 days of the date the property in which that person has an ownership interest comes into New York State. Effective June 1, 1990.
1137-A(c)	220-4	N-91-8	<u>Returns of Estimated Tax and Payments</u> As amended, provides that the requirement for the filing of the March Estimated Return will not apply to periods beginning after March 1, 1991. Effective February 27, 1991.
1139(f)	12-2		<u>Refunds and Credits</u> As amended, provides for a refund of sales tax paid on the purchase price of a motor vehicle which was refunded by the manufacturer pursuant to either subdivision 5 of Section 396-p, or section 198-a of the General Business Law (commonly referred to as the Lemon Law). Effective August 25, 1990.

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1145(a)	220-5	N-91-8	<u>Penalties and Interest - Estimated Tax</u> As amended, eliminates the special rules for computing penalties and interest on under payments of tax with the March estimated return now that the requirement for filing the estimated return has been eliminated. Effective date February 27, 1991.
1148	220-2	N-91-8	<u>Deposit and Disposition of Revenue</u> As amended, provides that 12 of the sales tax revenues collected or received by the Tax Department, with respect to the taxes imposed pursuant to sections 1105 & 1110 of Article 28 of the Tax Law must be disposed of in the manner prescribed by section 92-r of the State Finance Law (local government assistance tax fund) Effective February 27, 1991.

*For further information see applicable memoranda, notice or publication.

Article 28-A (NEW)

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1160	190-165	N-90-26	<u>Imposition - Special Tax</u> As added, imposes a special tax at the rate of 5% on the rental or use of passenger cars in this state. This tax is in addition to any sales taxes imposed under Article 28. This tax will not be imposed where the taxable receipt must be calculated pursuant to section 1111(i) (leases of one-year or more) of Article 28. Effective June 1, 1990.
1165	190-165	N-90-26	<u>Administrative Provisions-Special Tax</u> As added, provides that the special 5% tax on passenger car rentals will be administered and collected in the same manner as taxes imposed pursuant to sections 1105 and 1110 of Article 28 (sales and use taxes). Effective June 1, 1990.
1166	190-165		<u>Transitional Provisions- Special Tax</u> As added, provides that the transitional provisions contained in Section 1106 of Article 28 shall apply (where applicable) to the special tax imposed under Article 28-A except that references to dates are amended to reflect the effective date of the special 5% tax on passenger car rentals. Effective June 1, 1990.

*For further information see applicable memoranda, notice or publication.

Article 29

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1202-b	16-1		<u>Authorization for Brooke County to Increase its Hotel/Motel Occupancy Tax</u> As amended, increases the rate of tax authorized to be collected on the daily rental charge of a room in a hotel or motel from 1% to 3%. It also amended the definition of a permanent resident to mean a person occupying a room for at least 30 (up from 7) consecutive days. In addition, the exclusion from the tax for hotels or motels having 25 rooms or less, or for a hotel operated on a seasonal basis of 6 months or less has been eliminated. Effective March 28, 1990.
1202-d	797-1		<u>Extends the Authorization for Oneida County Hotel and Motel Occupancy Tax</u> As amended, provides that the 2% Oneida County hotel/motel occupancy tax, which was due to expire on December 31, 1990, will be extended until December 31, 1993. Effective July 25, 1990.
1202-f	799-1		<u>Tompkins County Hotel and Motel Occupancy Tax - Persons Required to Collect</u> As amended, provides that tax exempt organizations described in Section 1116(a)(4) of Article 28 are required to collect the county hotel/motel tax if they make a charge for occupancy to persons who are not exempt from taxation. Effective January 1, 1991.

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1202-k	643-2		<u>Authorization for Montgomery County Hotel/Motel Occupancy Tax</u> As added, authorizes Montgomery County to impose a tax (not to exceed 1%) on the daily rental charge to persons occupying rooms in hotels, motels, inns, tourist facilities and similar establishments within the county. Effective July 18, 1990.
1202-k	734-1		<u>Authorization for Rockland County Hotel/Motel Occupancy Tax</u> As added, authorizes Rockland County to impose a tax (not to exceed 3%) on the daily rental charge to persons occupying rooms in hotels or motels within the county. Effective September 20, 1990.
1210	8-1	TSB-M 90(5)S	<u>Authorization for Erie County to Extend its Additional 1% Local Sales Tax Rate</u> As amended, authorizes Erie County to adopt and amend local laws or resolutions imposing an additional 1% sales tax (over and above its 3% sales tax) for the period beginning March 1, 1990 and ending February 28, 1991. Effective February 12, 1990.
1210	345-2 90-(12)S	TSB-M	<u>Authorization for Nassau County to Extend its Additional 3/4% Local Sales Tax</u> As amended, authorizes Nassau County to adopt and amend local laws imposing an additional 3/4% sales tax (over and above its 3% sales tax) through December 31, 1991. Effective June 30, 1990.

*For further information see applicable memoranda, notice or publication.

TSB-M-91 (1) S
Sales Tax
May 15, 1991

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1210	393-1	TSB-M 91(5)S	Authorization for Cattaraugus County to Extend its Additional 1% Local Sales Tax As amended, authorizes Cattaraugus County to adopt and amend local laws or resolutions imposing an additional 1% sales tax (over and above its 3% sales tax) through February 28, 1994. Effective July 10, 1990.
1210	769-1	TSB-M 90(9)S	Authorization for the City of Rome to Impose Additional Sales Tax of 1/4% As amended, authorizes the City of Rome to adopt and amend local laws, ordinances or resolutions imposing an additional 1/4% sales tax (over and above its 3%) beginning September 1, 1990 and ending August 31, 2000. Effective July 25, 1990.
1210(a)	190-186		Authorization for the City of New York to Impose Additional Rate of Tax of 2% on Parking As amended, provides that localities may not impose a special hotel occupancy tax like that imposed pursuant to section 1104 of Article 28. It also provides that when the taxes imposed by Section 1107 (For the benefit of the municipal assistance corporation for the City of New York) terminate, the City of New York may impose an additional tax of 2% (over and above its 4% sales tax) on charges for services described in section 1105(c)(6) of Article 28 (parking, garaging, a n d storing of motor vehicles). Effective June 1, 1990.

*For further information see applicable memoranda, notice or publication.

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1212-A	190-188		<u>Technical Corrections</u> As amended, makes certain technical corrections as to the authorization and administration of local taxes relating to parking, garaging and storing of motor vehicles, miscellaneous personal services, credit rating and reporting services, protective and detective services, interior decorating and design services and interior maintenance services when such taxes are imposed within New York City. Effective June 1, 1990.
1223	769-2		<u>Limitations on Tax Rates</u> As amended, adds the City of Rome to those local taxing jurisdictions which have the authority to impose taxes in excess of the 3% maximum rate set forth by this section. Effective July 25, 1990.
1224	769-3		<u>Prior Rights Assigned Counties and Cities - City of Rome</u> As amended, subdivision (i) is relettered to be subdivision (j) and a new subdivision (i) is added which provides that the additional 1/4% sales tax authorized to be imposed by the City of Rome shall not be subject to pre-emption. Effective July 25, 1990.

*For further information see applicable memoranda, notice or publication.

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1230	799-2		<u>Exempt Organizations</u> As amended, provides that tax exempt organizations described in section 1116(a)(4) of Article 28 are required to collect the hotel and motel occupancy tax imposed by Tompkins County when such hotel/motel charges are made to persons or organizations who are not tax-exempt. Effective January 1, 1991.
1262(f)	835-1		<u>Disposition of Revenues From Sales Taxes</u> As amended, provides that activities of government chargeable to the area of town outside of villages, including a fire protection district coterminous with the area of a town outside of villages is considered a part-town activity. Effective July 25, 1990.
1262-e	345-3		<u>Local Government Assistance Program in Nassau County</u> As amended, authorizes Nassau County to extend its establishment of a local government assistance program through the calendar year beginning January 1, 1991. Effective June 30, 1990.

*For further information see applicable memoranda, notice or publication.

SUPPLEMENTARY LAWS

<u>Tax Law Section</u>	<u>Bill Chapter & Section</u>	<u>Reference*</u>	<u>Brief Summary</u>
1817(k)	190-189		<u>Criminal Penalties For Sales and Compensating Use Taxes</u> As amended, provides that willful failure to pay over taxes imposed pursuant to section 1104 (special hotel occupancy tax) could result in prosecution under the penal law in addition to the penalties assessable under the Tax Law. Effective June 1, 1990.
1817(p)	190-166		<u>Criminal Penalties For Sales and Compensating Use Taxes</u> As amended, provides that the penalties prescribed in this section will apply for purposes of the Article 28-A tax on passenger car rentals. Effective June 1, 1990.

*For further information see applicable memoranda, notice or publication.