



## Department of Taxation and Finance

**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 \(Article 28\)](#).

Important Notice N-90-12, *Change in the Collection of Sales Tax on Certain Leases*, begins on page 2 below.



# Important Notice

**N-90-12**

## Change in the Collection of Sales Tax on Certain Leases

Recently enacted legislation that goes into effect June 1, 1990, changes the way sales and use tax will be collected on the leases of certain motor vehicles, boats and noncommercial aircraft. Before June 1, 1990, the tax was computed on the amount of each lease payment and collected at the time each payment was made; on and after June 1, 1990, the tax will be computed based on the total amount due under the lease agreement at the time of inception.

Leases of only the following property are affected:

- a motor vehicle as defined in section 125\* of the Vehicle and Traffic Law having a gross vehicle weight of 10,000 pounds or less;
- a vessel as defined in section 2250\*\* of the Vehicle and Traffic Law, including an inboard motor, an outboard motor, and any trailer as defined in section 156 of that law when the motor or trailer is leased with the vessel; and
- any noncommercial aircraft with a seating capacity of fewer than 20 passengers and a maximum payload capacity of fewer than 6,000 pounds.

This change affects only these agreements:

- A lease that covers a period of one year or more;
- An option to renew a lease for a period of one year or more; or
- Any similar contractual provision which, if exercised, would extend a lease for a period of one year or more.

A lease for a period of one year or more covers any lease or a shorter period where the lease includes one or more options to renew (or any similar provisions) that, if exercised, would make the cumulative period of the lease one year or more, whether or not the option is exercised.

When a lease, an option to renew or similar provision, or a combination of these, is entered into on or after June 1, 1990, the amount due under the agreement and for the entire period covered (including renewals and/or options)

will be immediately subject to sales tax. Tax must be collected as of the due date of the first payment under the agreement or the date of registration with the Commissioner of Motor Vehicles, whichever comes first. Sales tax must be reported on the applicable sales and use tax return for the period encompassing that date. Any lease in effect prior to June 1, 1990, that upon renewal on or after June 1, 1990, meets the definition outlined in this notice, will also be taxed according to the new provisions. Any excess mileage charges remain subject to tax as and when paid or due.

Where an agreement is originally entered into outside New York State but the property is brought into New York during the term of the agreement, tax will be due, in accordance with the new rules, on any balance remaining after the lessee brings the property into the state. However, certain credit (or refund) provisions for tax paid to other taxing jurisdictions will apply.

This legislation does not affect the exemption from tax granted in section 1116 of the Tax Law for leases to federal and state agencies and instrumentalities and other qualified organizations.

This legislation may affect a vendor located outside New York State. A vendor outside the state who leases property to an individual or business in New York State under the terms of an agreement that qualifies as one of those defined in this notice must be registered as a New York State vendor and collect tax on the receipts from these agreements. The *Certificate of Registration* required must be filed within 30 days of the date the property in question is brought into New York State.

No refund of tax paid on any lease agreement defined in this notice will be allowed even though the agreement may be terminated prematurely or an option to extend (upon which the tax was based) is not exercised. However, consumers will still be eligible for a refund of tax related to refunds paid by a manufacturer in accordance with the provisions of section 198-a of the general business law (the lemon law).

### If You Need Help...

<b>Phone</b>	For forms or publications, call toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073.
	For information, call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.
	Telephone assistance is available Monday through Friday from 8:00 a.m. to 5:00 p.m.
<b>Write</b>	If you need to write, address your letter to: NYS Tax Department Taxpayer Assistance Bureau W. A. Harriman Campus Albany, NY 12227

\*Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (b) vehicles which run only upon rails or tracks, and (c) snowmobiles.

\*\*A vessel shall be every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water. A vessel propelled by an outboard motor shall include the hull, but shall not include the outboard motor.