

SUBSTANCE OF THE PROPOSED RULE

DEPARTMENT OF TAXATION AND FINANCE

This rule amends Parts 533, 539, and 540 of the Sales and Use Taxes Regulations concerning, respectively, Vendor Obligations, Vendor Registration, and Expiration of Certificates of Authority and Registration Renewals. The rule is a necessary part of the Department's plan to streamline the sales tax re-registration process by eliminating the special certificate of authority and its specified annual term for a certain group of sales tax vendors known as show and entertainment vendors. Currently, this "Certificate of Authority for Show and Entertainment Vendors" is automatically reissued by the Department at the end of each calendar year provided the vendor has timely filed its tax returns and paid the applicable tax due. This rule will allow the Department to conform the treatment of show and entertainment vendors with all other certificate of authority holders for purposes of reissuing their certificates, i.e., as part of a sales tax re-registration program, and thereby obtain updated vendor information, delete obsolete registrations, and collect past-due taxes from them. Part LL-1 of Chapter 57 of the Laws of 2008 directs the Department to conduct such a re-registration program which should be completed by March 31, 2012.

Section 1 of the rule repeals paragraphs (2) through (6) of section 533.1(b) of the regulations, as these paragraphs are specific to the annual process by which show and entertainment vendors' certificates of authority are automatically reissued by the Department. Subdivision (b) is further amended to delete references to the distinct certificate of authority for show and entertainment vendors.

Sections 2, 3, 4, and 6 of the rule make conforming amendments to the regulations by deleting references to the special certificate of authority for show and entertainment vendors which will no longer exist. These sections also make other technical changes to the affected sections of Part 533 of the regulations.

Sections 5, 11, and 13 of the rule make technical amendments to the affected sections of Parts 533, 539, and 540, respectively, of the regulations by updating information related to the filing of certificates of registration.

Section 7 of the rule conforms existing section 539.2(j)(1) of the regulations to recently enacted Part LL-1 of Chapter 57 of the Laws of 2008 which requires fees be collected from certain applicants in conjunction with this legislation's directed sales tax re-registration program.

Sections 8, 9, 10, 12, 14, and 15 of the rule make clarifying, technical, and conforming amendments in Parts 539 and 540 of the regulations in accordance with sections 1134(a)(2) and (5) of the Tax Law. The amendments clarify that a certificate of authority may be issued by the Department for a specified period of not less than three years or, in the case of show, entertainment, and temporary vendors for a specified period of less than three years, and that such certificate would, by its terms, expire at the end of the specified period. Also, as clarified in Part LL-1 of Chapter 57 of the Laws of 2008, a certificate of authority may be subject to an expiration and renewal process as part of a sales tax re-registration program conducted by the Department even though it has not been in effect for its specified period.

Section 10 of the rule also contains a transitional provision for show and entertainment vendors whose certificates of authority expire on December 31, 2008, to automatically receive from the Department a new certificate of authority, effective January 1, 2009, (provided that the vendor has timely filed tax returns and paid the applicable tax due) in order to allow these vendors ample time to become familiar with the provisions of the new rule.

Section 16 of the rule makes technical amendments to section 540.2 of the regulations to modify the term "mailed" to the more general term "issued" which accommodates the utilization of more modern and cost-effective means of communication between taxpayers and the Department with regard to the sales tax re-registration process.

Section 17 of the rule repeals superfluous subdivision (a) of section 540.3 of the regulations which mirrors statutory language concerning grounds under which the Department may refuse to issue a certificate of authority, and adds a new subdivision (a) which merely references the applicable statute.