



Materialmen and the Pay-When-Paid Option

Introduction

Materialmen who make qualified sales to contractors may be able to postpone payment of the sales tax until they receive payment from the contractor. This bulletin explains:

- which sales qualify under the pay-when-paid option, and
- how materialmen should report these transactions on their sales tax returns.

A *materialman* is any person or business that sells any of the following to a property owner, contractor, subcontractor, or repairman to be used for the improvement of real property:

- building materials;
- machinery, tools, or equipment;
- compressed gases for welding or cutting; or
- fuel or lubricants for the operation of machinery or motor vehicles.

Common examples of materialmen include hardware stores, building supply companies, and home improvement stores.

Qualifying for the pay-when-paid option

To qualify for the pay-when-paid option, a seller must:

- have been a *materialman* during any two sales tax quarters within the most recent four consecutive sales tax quarters;
- be primarily engaged (more than 50% of sales) in selling building materials to contractors, subcontractors, or repairmen (including a property owner acting as his or her own contractor) for the improvement of real property; and
- be authorized by the Lien Law to file a mechanic's lien upon the property and improvements to the property.

In addition, to qualify for the pay-when-paid option, a sale must be made on credit granted by the seller. Payments made with cash or sales financed by a third-party, where credit is not extended by the seller to the purchaser (e.g., purchases made using a private label credit card), **do not qualify** for the pay-when-paid option. Sales tax must be collected on those types of sales at the time of the sale and remitted with the sales and use tax return filed for that reporting period.

Qualifying sellers must submit [Form ST-112, Annual Application for a Materialman to Remit Sales Tax Under the Pay-When-Paid Option](#), by June 1 of each year.

Filing returns when using the pay-when-paid option

Under the pay-when-paid option, a materialman must report qualifying sales as gross sales (not taxable sales) on the tax return covering the period in which the sale is made. The sales are then reported as taxable sales for the period when the materialman

receives payment. In all cases, the tax must be remitted **within one year of the date of sale**, whether or not payment is received from the purchaser.

When the return is filed and the tax due is remitted, tax is computed at the rate in effect at the time the sale was made. If the sales tax rate changes in the applicable locality after the sale, the materialman must file a paper sales tax return for the current quarter and will have to manually enter the:

- correct name of the taxing jurisdiction;
- jurisdiction code that was in effect when the sale was made;
- amount received for the taxable sale;
- tax rate that was in effect when the sale was made; and
- sales tax due.

For additional information, see [TSB-M-99\(2\)S](#), *Materialmen - Pay When Paid*.

Example: In August, a supplier sells building materials for \$30,000 to a contractor in Albany County. The supplier bills the contractor \$32,400 (\$30,000 for materials, plus \$2,400 for the 8% sales tax). The contractor agrees to pay the supplier when the house is sold. The house is sold in November of the same year, and the contractor pays the supplier the amount owed of \$32,400.

The supplier reports the \$30,000 sale as a gross sale on the quarterly sales and use tax return filed for the period ending August 31, and not as a taxable sale. The supplier reports the payment as a taxable sale on the quarterly return for the period ending November 30.

Example: In March, a supplier sells building materials for \$20,000 to a contractor in Albany County. The supplier bills the contractor \$21,600 (\$20,000 for materials, plus \$1,600 for the 8% sales tax). The contractor agrees to make payments each month of \$5,400, during April, May, June, and July.

The supplier reports the \$20,000 sale as a gross sale on the quarterly sales and use tax return filed for the period ending May 31. The supplier reports \$10,000 as a taxable sale on the return for the period ending May 31. The supplier reports the total for June and July (\$10,000) as a taxable sale on the quarterly return ending August 31.

If the supplier files monthly returns, \$5,000 in taxable sales would be reported on each monthly return filed for the months of April, May, June, and July.

Uncollectible accounts

If a receivable from a qualifying sale is determined to be uncollectible for federal income tax purposes, the materialman may apply for a refund or credit of the tax paid on the uncollectible amount (e.g., if an account becomes uncollectible after one year from the date of the sale and the materialman has paid the tax due as required). The materialman must apply for the refund or credit within three years from the date the tax was payable to the Tax Department, or two years from the date the tax was paid, by filing [Form AU-11](#), *Application for Credit or Refund of Sales or Use Tax*. For additional information, see Tax Bulletin [How to Apply for a Refund of Sales and Use Tax \(TB-ST-350\)](#).

Recordkeeping

In addition to the recordkeeping requirements for all sales tax vendors, materialmen using the pay-when-paid option must keep the following records for each sale of building materials or services to a contractor:

- the date of the sale;

- proof (such as an invoice) that the sale is a sale of building materials or related services;
- the amount of credit, if any, extended by the materialman to the contractor for the sale;
- the payment terms; and
- the date(s) on which the purchase price is paid, in part or whole, and the amount of each payment or repayment.

For additional information, see Tax Bulletin [Recordkeeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#).

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

References and other useful information

Tax Law: Sections 1132(a)(2); 1135(f)

Publications:

[Publication 20](#), *New York State Tax Guide for New Businesses*

[Publication 750](#), *A Guide to Sales Tax in New York State*

[Publication 900](#), *Important Information for Business Owners*

Memoranda:

[TSB-M-99\(2\)S](#), *Materialmen - Pay When Paid*

Bulletins:

[How to Apply for a Refund of Sales and Use Tax \(TB-ST-350\)](#)

[Recordkeeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#)