Use Tax in New Jersey

Publication ANJ-7

What is Use Tax?

The New Jersey Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) provides for Use Tax to be imposed when taxable property (including specified digital products) and services are purchased for use in New Jersey, but Sales Tax is not collected by the retailer in the state of purchase or is collected at a rate less than the New Jersey Sales Tax rate.

When the seller does not collect Sales Tax at the time of purchase or collects tax at a rate less than the current New Jersey Sales Tax rate, the purchaser owes Use Tax to New Jersey.

What is the Use Tax Rate?

Effective January 1, 2018, the New Jersey Sales and Use Tax rate decreases from 6.875% to 6.625%. The tax rate was reduced from 7% to 6.875% in 2017. Additional information about the Sales and Use Tax rate change is available online.

Imposition of Use Tax

Examples of when Use Tax is due:

- Taxable property and services are purchased out of state for use in New Jersey, and no Sales Tax is collected. The purchaser owes Use Tax;
- Taxable property and services are purchased out of state for use in New Jersey, and Sales Tax is collected at a lower rate than New Jersey's. The purchaser owes Use Tax. See *Reciprocity* below;
- Items of inventory that were purchased tax-free with a resale certificate are used by the purchaser (e.g., are given away as part of a promotion). The purchaser owes Use Tax.

Reciprocity

Out-of-State Purchases Received Outside New Jersey. When taxable property and services are purchased and received in another state, and sales tax is paid to that state, New Jersey will allow a credit against the Use Tax due, provided that the other state allows a similar credit for Sales Tax paid to New Jersey. If the sales tax rate in a reciprocating state is equal to or greater than New Jersey's tax rate, no Use Tax is due.

If the sales tax rate in the state where the purchase is made is less than New Jersey's, Use Tax is due at the current rate. However, a credit for the sales tax paid in another state is allowed against the Use Tax due. For example, if a buyer made an out-of-State purchase on January 11, 2018, for $100 and the sales tax rate was 4%, the buyer paid $4 in sales tax. The New Jersey Use Tax rate in effect for that period is

6.625%, so the buyer owes $6.63 (6.625% × $100), less a credit for the $4 already paid to the other state, for a New Jersey Use Tax due of $2.63.

Out-of-State Purchases Delivered to New Jersey. When taxable property and services are purchased in another state and delivered to New Jersey for use in New Jersey, no credit is allowed for sales tax paid to the other state. Use Tax is due on the purchase price, including delivery charges.

Purchases Made in a Foreign Country. When taxable property and services are purchased in a foreign country, no credit is allowed for sales tax paid to the foreign country, regardless of whether the purchaser takes possession of the items there or has them delivered to New Jersey. Use Tax is due on the purchase price, including delivery charges.

Businesses Registered to Collect Tax

When taxable property or services are purchased from an out-of-state business and the buyer takes possession of the items in New Jersey, the seller will collect New Jersey Sales Tax if registered to do business in this state. In that case, no Use Tax is due. On the other hand, an out-of-state business that is not registered in New Jersey cannot legally collect New Jersey Sales Tax. If taxable property or services are purchased from an out-of-State business that does not charge New Jersey Sales Tax, the tax is due even though the seller is not authorized to collect it. In such instances, the purchaser must pay Use Tax directly to New Jersey.

Remitting Use Tax

Individuals and businesses report and pay Use Tax on different forms.

Individuals. Individual taxpayers report and pay any Use Tax due on Form ST-18 within 20 days after property is brought into New Jersey or on their New Jersey Resident Income Tax Return (Form NJ-1040).

Businesses. Sellers and those nonsellers who file monthly remittances and/or quarterly returns with New Jersey report and pay Use Tax on Forms ST-50 and ST-51. Certain nonseller businesses, if qualified, are authorized to report and pay Use Tax on the Annual Business Use Tax Return (Form ST-18B).

Self-Audit Programs

From time to time the Division of Taxation conducts Use Tax Self-Audit Programs of businesses and licensed professionals in the state. These programs are geared towards businesses that regularly purchase taxable services and taxable property such as office supplies and equipment from out-of-state businesses for use in New Jersey without paying Sales Tax. These businesses and professionals are required to pay Use Tax on these purchases. With very few exceptions, the Sales and Use Tax Act

does not exempt from tax items used in conducting business. In addition, some items are taxable *because they are used in business.* For example, paper products are exempt when purchased for household use but are taxable when purchased for use in a business (e.g., toilet tissue for a restroom). Use Tax is due if the business does not pay Sales Tax on the purchase of the paper products.

For More Information

Contact the Division's Customer Service Center at 609-292-6400, or email us. Many State tax forms and publications are available on our website.