



Summary of Sales and Use Tax Changes Enacted in the 2018-2019 Budget Bill

The following sales and use tax changes were part of the 2018-2019 New York State budget and are briefly discussed in this memorandum:

- [Sales for resale by restaurants, caterers, and similar establishments](#)
- [Exemption for certain drugs or medicine used on livestock or poultry](#)
- [Responsible person liability relief for certain LLC members or limited partners](#)
- [Technical corrections to certain local sales and use tax rate extensions](#)
- [Changes related to the sales tax imposed on certain transportation services](#)

Sales for resale by restaurants, caterers, and similar establishments

As of June 1, 2018, sales of otherwise taxable food and beverages by restaurants, caterers, and similar establishments can be made for resale and not subject to sales tax. Examples of food and beverages that can be sold for resale include:

- cooked meat or vegetable dishes
- cooked pasta dishes
- cooked rotisserie chicken
- deli or sandwich platters (such as cold cuts, subs, or burgers)
- hot coffee
- meals purchased from restaurants to be resold
- premade sandwiches
- soups
- subcontracted catering services
- vegetable platters

[Form ST-120](#), *Resale Certificate*, has been updated to provide for purchases of restaurant-type food and beverages for resale.

Prior to June 1, 2018, persons making purchases of taxable food and beverages from restaurants, caterers, and similar establishments needed to pay sales tax and later apply for a refund or credit of any tax paid once the items were resold. A refund or credit is still available for any tax paid on these purchases. Purchasers seeking a refund or credit should use [Form AU-11](#), *Application for Credit or Refund of Sales or Use Tax*.

[Part J of Chapter 59 of the Laws of 2018; Tax Law § 1105(d)(i)]

Drugs or medicine for use on livestock or poultry used in farm production

Purchases of drugs or medicine on or after June 1, 2018, for use on livestock and poultry used in farm production are exempt from sales tax. This exemption applies to:

- Drugs or medicine sold to or used by a veterinarian providing exempt veterinary services to livestock or poultry used in farm production
- Drugs or medicine sold to or used by a person on livestock or poultry used in farm production

[Form ST-125](#), *Farmer's and Commercial Horse Boarding Operator's Exemption Certificate*, has been updated to provide for this exemption.

Prior to June 1, 2018, persons making purchases of drugs or medicines, as described above, needed to apply for a refund or credit of any sales or use taxes paid. That requirement has been repealed. However, a refund or credit is still available for any taxes paid on an otherwise exempt sale. Purchasers seeking a refund or credit should use [Form AU-11](#), *Application for Credit or Refund of Sales or Use Tax*.

[Part W of Chapter 59 of the Laws of 2018; Tax Law §§ 1115(f) and 1119(a)]

Responsible persons liability relief for certain LLC members and limited partners

The Tax Law has been amended to provide relief from responsible persons liability for certain minority members of a limited liability company (LLC) and limited partners of a limited partnership. An LLC member or limited partner must submit an application for this relief to the Commissioner and meet specific requirements to be eligible for this relief.

The Tax Department will issue separate guidance on these amendments.

[Part X of Chapter 59 of the Laws of 2018; Tax Law §§ 1131(1) and 1133(a)]

Technical corrections to certain local sales and use tax rate extensions

Technical corrections were made related to the extension of the additional rates of sales and uses taxes for Genesee, Monroe, Onondaga, and Orange counties retroactively effective as of June 29, 2017.

[Part Z of Chapter 59 of the Laws of 2018; Subparts R, Z, EE, and GG of Part A of Chapter 61 of the Laws of 2017]

Changes related to the sales tax imposed on certain transportation services

The Tax Law has been amended with respect to the definitions of the terms *limousine* and *bus*, as these terms relate to the imposition of sales tax on transportation services. These changes took effect on April 12, 2018.

Previously, a *limousine* was defined only as a vehicle with a seating capacity of up to fourteen persons, excluding the driver. That definition is now expanded to also include any vehicle with a seating capacity of between fifteen and twenty persons, excluding the driver, that has only two axles and four tires. Transportation services provided by limousines are subject to sales tax.

A *bus* is now defined as any motor vehicle with a seating capacity of at least fifteen persons, excluding the driver, that does not otherwise qualify as a limousine. Transportation services provided by buses are *not* subject to sales tax.

For additional information about the sales tax on transportation services, see [TSB-M-09\(2\)S](#), *Sales Tax Imposed on Certain Transportation Services*, [TSB-M-09\(7\)S](#), *Additional Guidance Relating to the Sales Tax on Certain Transportation Services*, and [TSB-M-13\(2\)S](#), *Revised Policy Concerning the Application of the Sales Tax Exclusion for Certain Transportation Services Provided by an Affiliated Livery Vehicle in New York City*.

[Part NNN of Chapter 59 of the Laws of 2018; Tax Law § 1101(b)(34)]

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