



Co-vendor Agreements

Introduction

A co-vendor agreement applies to situations where a seller (generally a manufacturer, wholesaler, or other supplier) has independent distributors selling its products through party plans or similar arrangements (e.g., catalog, door-to-door sales, multi-level marketing, etc.).¹

Co-vendor responsibilities

In a co-vendor situation, the supplier can request to enter into a written co-vendor agreement with the Tax Department and, once approved, takes on all the sales tax responsibilities for its independent distributors. The supplier must register for New York State sales tax purposes and collect and remit any sales taxes due. See Tax Bulletin [How to Register for New York State Sales Tax \(TB-ST-360\)](#) for more information.

The independent distributor processes a customer's order paperwork and submits it directly to the supplier. The supplier then sends the items ordered to the independent distributor for delivery to the customers or sends the items directly to the customers.

The supplier must collect sales tax from the independent distributor based on the retail selling price of the items purchased at the tax rate in effect where the items are delivered to the independent distributor or to the customer.

An independent distributor whose supplier is registered and is complying with its responsibilities as a New York State co-vendor is not required to register as a vendor.

Note: Both the supplier and its independent distributors remain jointly liable for any sales taxes due, even though only the supplier is actually registered and files sales and use tax returns.

Terms of Tax Department co-vendor agreements

The Tax Department has a standard co-vendor agreement that it will send to a supplier that requests to be treated as a co-vendor. The supplier must complete the agreement and return it to the department. In addition, the supplier must furnish:

- a detailed description of its business operation in New York State;
- copies of catalogs, etc., showing the suggested retail prices of its products; and
- copies of any contracts or other agreements in place between the supplier and its independent distributors.

¹ A co-vendor agreement may also be applicable in other situations where one party agrees to take on the responsibilities of a vendor on behalf of others, or accepts payment (including tax receipts) on behalf of other vendors. This bulletin focuses on the more common uses of the co-vendor agreement related to party plan and other multi-level marketing arrangements.

When completed, the co-vendor agreement and additional information should be submitted to:

Department of Taxation and Finance
W A Harriman Campus - Bldg. 9
Albany NY 12227
ATTN: Taxpayer Guidance Division

If approved, a copy of the agreement will be signed by a Tax Department representative and forwarded to the supplier.

Note: A co-vendor agreement is not applicable in situations where goods are sold to a distributor at wholesale and the distributor has discretion in setting the retail pricing.

The agreement may be canceled or terminated by either party only upon at least 90 days written notification to the other party by certified or registered mail. However, the cancellation may only go into effect at the close of business on the last day of February, May, August, or November.

Refund or credit for sales tax refunded to distributors

The sales tax collected by a supplier from its independent distributors must be based on the catalog or suggested retail price of a taxable product.

However, if the independent distributor sells a product to a customer at a price lower than the catalog or suggested retail price, the supplier may:

- refund to the independent distributor the difference in sales tax between the amount collected based on the catalog or suggested retail price and the amount due based on the lower price at which the product was sold; and
- use [Form AU-11](#), *Application for Credit or Refund of Sales or Use Tax*, to claim a refund or credit of the sales tax refunded to the independent distributor.

Other reasons for claiming a refund or credit include:

- price adjustments;
- out-of-state deliveries;
- local jurisdictional adjustments;
- merchandise used for personal consumption or demonstration purposes;
- exempt sales;
- returned merchandise; and
- clerical or mathematical errors.

See Tax Bulletin [Sales Tax Credits \(TB-ST-810\)](#) for additional information.

Sales records

Suppliers and their independent distributors must keep records of:

- every sale,
- the amount of the sale, and
- the sales tax collected.

In addition, suppliers must maintain the names, addresses, and sales tax identification numbers (if any) of their independent distributors. See Tax Bulletin [Recordkeeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#) for additional information.

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: Section 1101(b)(8)

Regulations: Section 526.10(e)

Bulletins:

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

[*How to Register for New York State Sales Tax \(TB-ST-360\)*](#)

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

[*Sales Tax Credits \(TB-ST-810\)*](#)

Advisory Opinions: [TSB-A-08\(61\)S](#)