

**HAVING PROBLEMS WITH THIS AGREEMENT?**

**We can help.**

Let us know if you would like to participate; we are here to help you.



If you would like to participate, or if you have additional questions, please contact:

**New York State** Department of Taxation & Finance

Bldg. 9, Room 409  
State Campus  
Albany, New York 12227  
(518) 457-6840, or

**New York City**

2 World Trade Center  
New York City, New York 10047  
(212) 488-3498  
(212) 488-3471

**New Jersey State** Division of Taxation  
CN-273

Trenton, New Jersey 08646-0273  
(609) 984-0120

M-5031  
2-86

# NEW YORK/ NEW JERSEY

## Cooperative Interstate Tax Enforcement

**New Jersey State Library**

**New York State**

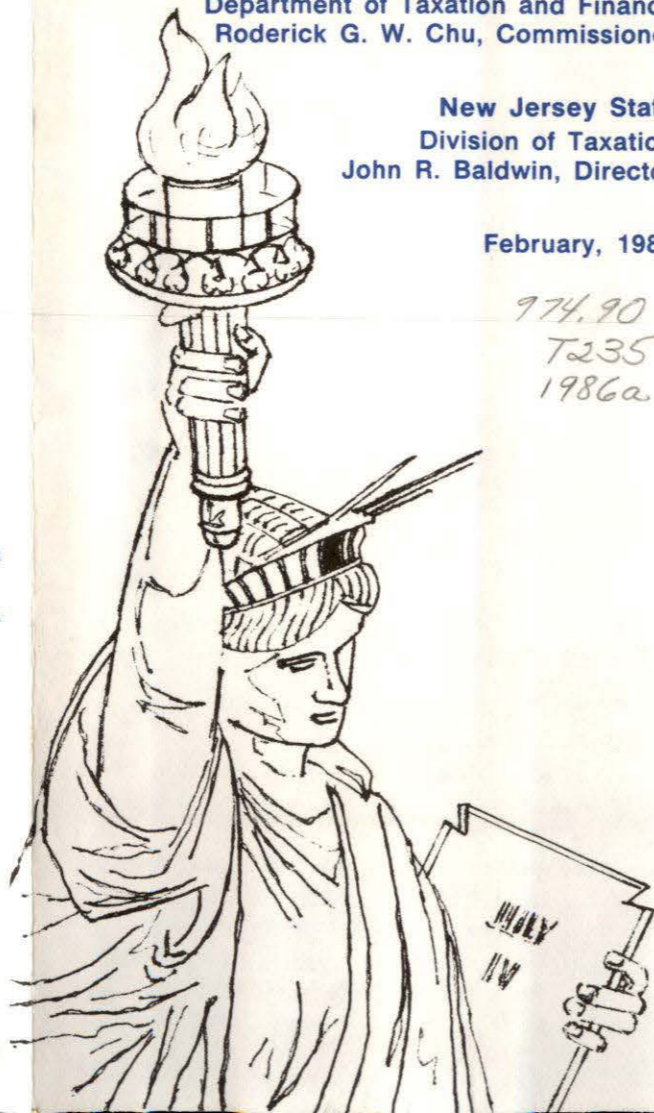
Department of Taxation and Finance  
Roderick G. W. Chu, Commissioner

**New Jersey State**

Division of Taxation  
John R. Baldwin, Director

February, 1986

974.90  
T235  
1986a



EFFECTIVE APRIL 1, 1986

COOPERATIVE INTERSTATE SALES AND USE TAX ADMINISTRATION

BY NEW YORK AND NEW JERSEY

### WHAT IS THIS AGREEMENT?

A new Border Sales Tax Agreement allows participating New York and New Jersey vendors selling taxable goods and services across State lines to voluntarily collect the neighboring State's use tax. The agreement also permits the States to actively exchange information on the sales and use tax and on corporate taxes.

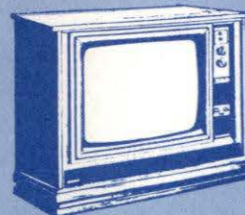
### WHY HAVE THE STATES SIGNED THIS?

The payment of New Jersey and New York use tax on sales across State lines is often avoided. This results in substantial losses of revenue for both States.

The agreement provides for the joint administration of both States' sales and use tax laws. Both State tax agencies will share information that will make it difficult for tax due on sales between the two States to go uncollected. This will help eliminate the unfair competitive advantage that some out-of-State merchants have over in-State vendors when dealing with in-State customers.

### WHAT IS USE TAX?

Use tax is a tax on the use of tangible personal property or services where sales tax has not been paid. Sales and use taxes are complementary taxes and are assessed at the same rates. Use tax is payable to the State in which the item is used, at that State's rate.



### WHY SHOULD I PARTICIPATE?

Participation in this agreement is voluntary. As a participating vendor, you will benefit from:

- ONE REGISTRATION filed with the State in which you are located;
- ONE TAX RETURN filed with the State in which you are located;
- ONE REMITTANCE paid to the State in which you are located, and
- ONE SALES AND USE TAX AUDIT coordinated by the State in which you are located.

**Additional benefits available to you are:**  
THE USE OF THE NEIGHBORING STATE'S EXEMPTION CERTIFICATES for qualified border transactions;  
CERTAINTY AS TO RESPONSIBILITIES TO BOTH STATES, and  
CONTINUED CUSTOMER GOODWILL.

**EXAMPLE:** John Doe, a resident of Newark, New Jersey, goes to New York City to purchase a console television from a discount store whose only outlets are in New York. The purchase price is \$800. The vendor agrees to ship the television set to John's home in Newark. Since this item was shipped to the purchaser across State lines, the vendor is not required to collect the New York sales tax. However, John has incurred a use tax liability of \$48 (\$800 X 6%), payable to New Jersey.

**One Registration:** You can obtain a registration application from either New York or New Jersey. Upon acceptance, a Certificate of Authority to collect and remit the neighboring State's use tax will be sent to you.

#### One Tax Return:

You will **not file** sales and use tax returns with both States. Tax for both States will be paid with your tax return filed with the State in which you are physically located. These returns will be modified to allow a simple method of reporting taxes due both states. In this way, record keeping will be minimized and the number of filings reduced.

#### One Remittance:

One payment of the full tax due both States will be made with your return, filed with the State in which you are located. The tax due each State will be distributed for you.

#### One Sales and Use Tax Audit:

Audits, when necessary, will be coordinated by the State in which you, the vendor, are located, allowing one audit to satisfy the requirements of both States.

#### Additional benefits available:

#### The Use of the Neighboring State's Exemption Certificates:

Exempt purchases can be made more readily. You, as a participating vendor, can now issue the neighboring State's resale and other exemption certificates for border transactions covered by such certificates. Your eligibility to use these certificates is governed by the laws of the State in which you, the purchaser, take possession of the items purchased.

#### Certainty as to Responsibilities to Both States:

In recent years, courts have held that despite the absence of a physical location in a neighboring State, a vendor, under certain circumstances, may be held liable for the full amount of the tax due on all goods shipped into that State. Vendors shipping over the New York/New Jersey border could face a substantial assessment for up to twenty years of uncollected taxes.

However, those who register under this agreement by April 1, 1986 can avoid these assessments. Vendors not previously registered in the neighboring State and accepted into this program **will not be held accountable** for the neighboring State's use tax for any time prior to commencement of this program. Exceptions to this policy would apply to any vendor who has a place of business in the delivery State, fails to produce complete records during the course of an audit, submits any false or misleading information or engages in any activity which may be construed as evidence of bad faith or intentional evasion of the tax. You may wish to contact either State to discuss these circumstances.



A **non-participating** vendor's activities in the neighboring State will be subject to scrutiny in an effort to discover existing or past tax collection responsibilities. To accomplish this, a new bi-State enforcement team composed of auditors from both States has been organized. When the facts support it, an assessment for prior periods will be made against the vendor. In all other cases, customers will be assessed the use tax due by their State of residence.

#### Continued Customer Goodwill

New York and New Jersey will be sharing information that will make it difficult for taxable sales to go undetected. Customers of participating vendors will pay the tax due when they make their purchases. Customers of non-participating vendors will be subject to use tax audits and may be assessed use tax, penalties and interest due their State of residence. Your business may suffer from the loss of customer good will.

**EXAMPLE:** Jane Doe, a resident of New York City, purchases a living room suite from a factory outlet located in Secaucus, New Jersey. This vendor is **not** a participant in the New York/New Jersey tax agreement and has no locations in New York. The vendor agrees to deliver the furniture to her New York City home at the purchase price of \$2,000. May this vendor collect the New York use tax?

This vendor, a non-participant in the bi-State agreement, is **not authorized** to collect the New York State or local use tax. Jane has incurred a \$165 use tax liability (\$2,000 X 8.25%). New Jersey tax authorities will furnish information to New York to enable New York to directly assess the tax, penalties and interest due.

#### WHO CAN PARTICIPATE IN THIS AGREEMENT?

As a vendor, you will generally be eligible to participate if you:

- 1) are registered for sales tax collection in the State in which you have a physical location;
- 2) buy or sell taxable goods and services across the New York/New Jersey border, and
- 3) do not have a physical place of business in both New York and New Jersey.

#### REQUIREMENTS FOR ACCEPTED VENDORS

You, as a vendor participating in this program, will file sales and use tax returns with one State. On border transactions, you will collect tax at the rate applicable where your customer takes possession of the items purchased. The sales and use tax laws of both New York and New Jersey will be complied with.



**EXAMPLE:** Jane Doe, a resident of New York City, purchases furniture from a factory outlet located in Flemington, New Jersey. The vendor is a participant in the New York/New Jersey tax agreement and agrees to deliver the furniture to Jane's New York City home. The purchase price is \$1,800.

The combined use tax rate for New York City is 8.25%. Use tax due on this transaction is \$148.50 (\$1,800 X 8.25%). The New Jersey vendor would separately state this tax on the invoice. The transaction would be reflected on the vendor's New Jersey State sales and use tax return. The New York tax collected would be remitted, along with any other sales and use taxes, to New Jersey.

#### WHAT HAPPENS WHEN I SIGN UP?

To participate, you may obtain a registration application from either New York or New Jersey and submit the completed application to the State in which you are located. This registration will be reviewed by both New York and New Jersey. If accepted, you will receive the neighboring State's Certificate of Authority, authorizing you to collect and remit the neighboring State's use tax directly to the State in which you are located and to issue the neighboring State's resale and exemption certificates.

All required information will be provided to you, along with the Certificate of Authority.