

New York State Department of Taxation and Finance  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-M-90 (8) S  
Sales Tax  
August 3, 1990

**DELAWARE COUNTY IMPOSES**  
**SALES AND USE TAX**

Effective September 1, 1990 a 2% sales and use tax is imposed by Delaware County on all taxable sales of tangible personal property and services, except sales of residential energy sources and residential energy services,\* made within the county. As a result, the rate of tax to be collected on taxable sales made within Delaware County on or after September 1, 1990 is 6% (4% New York State, 2% Delaware County) except as otherwise discussed in this memorandum.

The Delaware County sales and use tax also applies to the sale of certain services performed on machinery, equipment, parts, tools and supplies used in production. Since New York State does not tax the sale of such services (see TSB-M-79(13)S), they are subject to the 2% local tax only.

For proper distribution of state and county sales tax revenues, Delaware County is shown as a separate taxing jurisdiction on all sales and use tax returns and affected schedules which are to be filed for periods beginning on or after September 1, 1990; taxable sales made in Delaware County on or after that date are to be reported on the Delaware County line using the following codes:

<u>Return or Schedule</u>	<u>Tax Rate</u>	<u>Code</u>
ST-810 - Quarterly Return for Part Quarterly Filers	6%	1202
ST-100 - Quarterly Return	6%	1202
ST-101 - Annual Return	6%	1202
ST-102 - Limited Jurisdiction Return	6%	1202
Schedule FR - used to report tax on motor fuel and diesel motor fuel	6%	R1202
Schedule U - used to report tax on parts, tools, and supplies used in production (subject to tax in New York City only) and tax on services to production machinery, equipment, parts, tools and supplies.	2%	L1202

\* See TSB-M-78(7)S for information on residential energy sources and supplies.

### Transitional Provisions

#### Layaway Sales

The Delaware County tax applies to all layaways where the purchaser takes possession of (picks up) the merchandise on or after September 1, 1990 unless:

- the merchandise was purchased under a written agreement that was entered into prior to May 1, 1990; and
- the merchandise was taken out of inventory and set aside for the customer before May 1, 1990; and
- at least 10% of the sale price was paid before September 1, 1990.

If all three of the above conditions are met, then the sale will be taxed at only the 4% state rate and is to be reported on the New York State line.

#### Utility Bills Based on Meter Readings

When a bill is issued based on a meter reading that occurred before September 1, 1990, the Delaware County tax does not apply to any charges based on such reading; only the 4% state tax applies and the sales are to be reported on the New York State line.

When a meter is read on or after September 1, 1990, the Delaware County tax applies to the total amount billed, based on such reading, if more than one-half the number of days included in the period covered by the bill fall after September 1, 1990. If more than one-half the number of days in the billing period fall before September 1, 1990 then only the 4% state tax applies and the sale is reported on the New York State line.

#### Telephone Bills

Charges for telephone service (other than charges for which a bill was previously issued) which appear on the first bill dated on or after September 1, 1990 are subject to the Delaware County sales and use tax unless the charges are for services furnished prior to the date of the bill. Any charges appearing on such bill which represent charges for services furnished prior to the date of the first bill dated on or after September 1, 1990 are subject only to the 4% New York State sales and use tax and are to be reported on the New York State line.

#### Hotel/Motel Room Bills

When charges for hotel or motel room occupancy are billed on a daily basis, then the Delaware County tax applies to all such charges billed on or after September 1, 1990.

When charges for hotel or motel room occupancy are billed on other than a daily basis, the Delaware County tax applies only to that portion of the bill which covers the days falling on and after September 1, 1990; the balance of the billing is subject only to the state rate of 4% and is to be reported on the New York State line.

When the occupant of the hotel or motel room is a permanent resident (that is, occupies the room for 90 or more consecutive days), then there is to be no tax charged on the rental of the room.

#### Admission Charges

The Delaware County sales and use tax applies to taxable admissions for any event occurring on or after September 1, 1990, unless the admission tickets were actually sold and delivered to the purchaser before September 1, 1990. This is true whether or not admission charges were paid prior to September 1, 1990.

Admission tickets sold and delivered prior to September 1, 1990 are subject to the state rate only and are reported on the New York state line.

#### Social and Athletic Club Dues

The dues for membership (including membership renewals) in a social or athletic club are subject to the Delaware County sales and use tax if the membership period for which the dues are paid begins on or after September 1, 1990. The Delaware County tax applies regardless of when the dues are billed, when they are paid, or the payment terms.

The dues paid for memberships which begin before September 1, 1990 are not subject to the Delaware County sales and use tax even though payment may actually be made on or after September 1, 1990. Such dues are subject only to the 4% New York State sales and use tax rate and are to be reported on the New York State line.

#### Lump Sum or Unit Price Construction Contracts

If a lump sum or unit price construction contract was irrevocably entered into before June 13, 1990 (the date the Delaware County resolution was adopted), the contractor will be allowed a credit or refund of the Delaware County sales or use tax paid on purchases of tangible personal property used solely in the performance of this contract.