

**Year-Round Sales and Use Tax Exemption of Clothing, Footwear,
and Items Used to Make or Repair Exempt Clothing
(Effective April 1, 2006)**

Beginning April 1, 2006, there will be a year-round exemption from New York State sales and use taxes for clothing, footwear, and items used to make or repair exempt clothing, **costing less than \$110 per item or pair**. The exemption does not apply to locally imposed sales and use taxes unless the county or city imposing those taxes elected the exemption.

The exemption will apply to the state's 4% sales and use taxes. The exemption also applies to the $\frac{3}{8}\%$ sales and use taxes imposed by the state in the Metropolitan Commuter Transportation District (MCTD), but only in those areas of the MCTD located in a county or city in the MCTD which elects the exemption from its own local taxes. The MCTD consists of New York City and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

New York City enacted a year-round exemption for clothing, footwear, and items used to make or repair exempt clothing that took effect September 1, 2005. However, the year-round exemption in New York City did not apply to the $\frac{3}{8}\%$ MCTD taxes at that time. Effective April 1, 2006, in New York City, the year-round exemption for clothing, footwear, and items used to make exempt clothing will apply to the 4% New York State sales and use taxes, the 4% New York City local sales and use taxes, and the $\frac{3}{8}\%$ MCTD taxes.

Chautauqua County enacted a year-round exemption from its $4\frac{1}{4}\%$ local sales and use taxes on clothing, footwear, and items used to make or repair exempt clothing that took effect March 1, 2006. This exemption remains in effect. See TSB-M-06(2)S, *Local Chautauqua County Sales and Compensating Use Tax Exemption of Clothing, Footwear, and Items Used to Make or Repair Exempt Clothing, Effective March 1, 2006*. It should be noted that there is no limitation on the cost of eligible items of clothing and footwear, and items used to make or repair exempt clothing to qualify for Chautauqua County's local exemption.

See TSB-M-06(6.1)S, *Year-Round Sales and Use Tax Exemption of Clothing, Footwear, and Items Used to Make or Repair Exempt Clothing—Effective April 1, 2006 (Exemption within counties and cities)* for a listing of local tax rates in the counties and cities where clothing and footwear remain subject to local tax and a listing of counties and cities where the state and local exemptions apply.

Information on transitional provisions that apply to the year-round exemption, a description of the clothing and footwear exemption, and a listing of exempt and taxable items are provided on the following pages.

Special Transitional Provisions for the year-round exemption

Mail and telephone orders

New York State and local sales and use taxes (except the local taxes in Chautauqua County and New York City) will apply to purchases that are ordered by mail or by telephone if the orders are accepted by the vendor prior to April 1, 2006, even if the purchases are picked up or received on or after April 1, 2006. An order is accepted by the vendor when the vendor has taken an action to fill the order. Actions to fill an order include placing an in-date stamp on a mail order or assigning an order number to a telephone order. The same rule applies to orders made using the Internet and email.

Rain checks

The year-round exemption from sales and use taxes will apply to purchases made with a rain check on or after April 1, 2006, even though the customer uses a rain check that was issued before April 1, 2006.

Description of the clothing and footwear exemption

The exemption applies only to clothing and footwear worn by humans. It also applies to most fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing or that are used to make or repair exempt clothing. While the exemption applies to items of clothing and footwear worn on the body, not all items worn on the body qualify as clothing or footwear. Jewelry, watches, and like items remain taxable.

Equipment items, such as tool belts, hard hats, and sport, bicycle and motorcycle helmets, though worn on the body, remain taxable. Protective goggles and safety glasses (unless prescription) for sport or occupational use, protective sport or occupational masks or pads, hockey and baseball fielders' gloves or mitts, ice skates and roller skates, fireplace mittens, and similar pieces of equipment (sporting or otherwise) also remain taxable. Antique clothing and footwear are exempt if they are purchased for human wear and not as collector's items. All purchases of doll and pet clothes and footwear are taxable.

If exempt clothing or footwear is sold with other taxable merchandise as a single unit, the full price is subject to sales or use tax, unless the price of the clothing or footwear is separately stated. For example, a store has a boxed gift set for sale that has a French-cuff dress shirt, cufflinks and a tie tack. The gift set is sold for a single price of \$50. Although the shirt sold by itself would be exempt, the full price of the boxed gift set would be taxable because the cufflinks and tie tack are taxable and the selling price of the shirt is not separately stated.

The following additional limitations will apply to the exemption.

- The article of clothing or pair of shoes or other articles of footwear must be sold for less than \$110 per article or pair. This less than \$110 limitation also applies to each item of fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing or that are used to make or repair exempt clothing. A charge by the vendor for alterations to clothing sold by the vendor should be included when determining whether the less than \$110 limitation has been met, unless the vendor separately states a reasonable charge for the alteration on the receipt given to the purchaser of the clothing [see TSB-M-02(4)S].
- Costumes and rented formal wear are not eligible for exemption. Nor does the exemption apply to fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of costumes or rented formal wear or that are used to make or repair costumes or rented formal wear.
- Items of fabric, thread, yarn, buttons, snaps, hooks, zippers and like items used to make or repair otherwise exempt clothing are not eligible for exemption if the item is made from real or imitation pearls, or from real or imitation precious or semiprecious stones, jewels, or metals.
- Most accessories (such as handbags, umbrellas, watches, and watchbands) are not considered clothing and are taxable. However, belt buckles, handkerchiefs, sweatbands, head scarves, and neckwear, such as scarves and ties, are exempt.
- Fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items used to make or repair taxable products are taxable.
- Monogramming of clothing prior to its sale is eligible for exemption if the monogramming is sold in conjunction with the sale of the clothing and the price for the monogrammed item is less than \$110. However, if the monogramming is done separately by a vendor for a separate charge, the charge for this service is taxable. This limitation also applies to the application of decals, logos and like items (e.g., pictures or letters) by sewing, printing, imprinting, silk screening, and the like.

Delivery, shipping, and handling charges (delivery)

Reasonable, separately stated charges by the vendor for delivery of eligible clothing and footwear are not taken into account in determining if the cost of an item is less than the \$110 limitation. For example, if an article of clothing sells for \$95 and the vendor charges \$20 for delivery, the clothing and the delivery charge qualify for exemption. However, delivery charges by the vendor for items or pairs costing \$110 or more remain subject to tax.

Coupons

If a customer uses a manufacturer's coupon to pay for an article of clothing or a pair of shoes or other articles of footwear, the value of the coupon does not reduce the selling price for purposes of determining whether the article or pair is sold for less than \$110. But if a customer pays for clothing or footwear using a store coupon, for which the store receives no reimbursement, the store coupon does reduce the selling price of the clothing or footwear for purposes of determining whether the item is sold for less than \$110.

Special reporting requirements for exemption items

Vendors who make sales of exempt clothing, footwear, and items used to make or repair exempt clothing must file Schedule H to report those sales. All sales of these items must be separately reported on Schedule H for the locality in which the sales were made. Sales of exempt clothing, footwear, and items used to make or repair exempt clothing must be reported, by locality, whether they are subject to local tax (because a county or city did not elect for the exemption to apply) or are exempt from both state and local taxes.

Schedule H must be completed and filed by vendors who have made sales of eligible clothing and footwear during the period covered by the return. Schedule H will be supplied to all quarterly and annual filers of Forms ST-100, ST-101, ST-102, and ST-810 with their returns. This schedule should be completed and filed along with your quarterly or annual return.

The pages that follow contain lists of exempt and taxable clothing and footwear items. The lists are intended as a guide and are not all-inclusive. **Previously issued lists should not be used.**

**Sales and Use Tax Exemption of Clothing, Footwear,
and Items Used to Make or Repair Exempt Clothing Effective April 1, 2006**

Listing of exempt and taxable items

Exempt items

Aerobic clothing	Garters/garter belts	Shoes (ballet, bicycle,
Antique clothing (for wear)	Girdles	bowling, cleated, football,
Aprons	Gloves (batting, bicycle, dress	golf, jazz/dance, soccer,
Arch supports*	[unless rented], garden, golf,	track, etc.)
Arm warmers	ski, tennis, work)	Shoe inserts
Athletic supporters	Graduation caps and gowns	Shoe laces
Athletic or sport uniforms or	(unless rented)	Shoulder pads for dresses,
clothing (but not equipment	Gym suits	jackets, etc. (but not athletic
such as mitts, helmets and	Hand muffs	or sport protective pads)
pads)	Handkerchiefs	Shower caps
Bandannas	Hats	Ski masks
Bathing caps	Hosiery (panty hose, peds,	Sleepwear
Bathing suits	etc.)	Slippers
Beach caps and coats	Insoles	Sneakers
Belt buckles	Jeans	Socks
Belts/suspenders	Jogging suits	Sports clothing and uniforms
Bibs (baby)	Lab coats	(but not equipment such as
Blouses	Leg warmers	mitts, helmets, and pads)
Boots (climbing, fishing,	Leotards	Stockings
riding, ski, waders)	Lingerie	Support hosiery
Bridal gowns and veils (unless	Pajamas	Suspenders
rented)	Ponchos	Sweat bands
Caps	Prom dress (unless rented)	Sweat suits
Coats and wraps	Rain wear	Ties/neckwear
Corset laces	Receiving blankets	Tights
Coveralls	Religious clothing	Tuxedo (unless rented)
Diapers (adult – including	Rented uniforms (unless	Underwear
disposable)*	formal wear/costume)	Uniforms (occupational,
Diapers (children – including	Riding pants	military, scouting, sport)
disposable)	Robes	Wet and dry suits
Dress shields	Scarves	Yard goods, and notions**
Dresses	Scout uniforms	
Ear muffs	Shawls and wraps	
Formal clothing (unless	Shirts	
rented)		
Fur clothing		

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Taxable items

Antique clothing (collectible not for wear)	Key cases	Sunglasses (unless prescription)
Barrettes	Mitts (baseball fielder's glove, hockey, etc.)	Umbrellas
Bobby pins	Party costumes	Wallets
Costumes	Personal flotation devices	Watch bands
Crib blankets	Protective masks (athletic, sport, or occupational)	Watches
Elastic ponytail holders	Roller skates	Wigs
Goggles (unless prescription*)	Safety glasses (unless prescription*)	Yard goods and notions**
Hair bows	Sewing accessories (not an integral part of clothing such as chalk, instruction books, knitting needles, measuring tapes, needles, patterns, scissors, pins, thimbles)	
Hair clips		
Handbags and purses		
Headbands (sweatbands are exempt)		
Helmets (sport, motorcycle, bicycle, etc.)		
Ice skates	Shin guards and padding	
In-line skates	Shoulder pads (football, hockey, etc.)	
Jewelry		

* Items marked with an asterisk are exempt regardless of their price. See Publication 822, *Taxable Status of Medical Equipment and Supplies*. Do not report these items on Schedule H.

** Yard goods and notions (fabric, thread, yarn, buttons, snaps, hooks, zippers and like items) used or consumed to make or repair exempt clothing which become a physical component part of the clothing are generally exempt. See page 3 for additional details concerning the taxability of yard goods and notions.