
BOND INFORMATION MEMO

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New York State Establishes New Procedure for Claiming Sales Tax Exemptions for Industrial Development Agency Projects

The New York State Department of Taxation and Finance (“NYSDTF”) has established a new procedure for claiming sales tax exemptions for Industrial Development Agency (“IDA”) projects. Beginning June 1, 2014, companies that have been appointed as an IDA agent or sub-agent must claim the sales tax exemption by giving their vendors a new form (Form ST-123). Previously, IDA agents and sub-agents claimed the sales tax exemption by giving vendors a copy of their IDA sales tax exemption letter. The IDA sales tax exemption letter will no longer be used for this purpose.

New Form ST-123 must be used for all purchases made on or after June 1, 2014. IDAs should revise their standard sales tax exemption letter form, and other project-related documents, to reflect this new sales tax exemption process.

IDAs should also contact clients with ongoing projects, for which a sales tax exemption letter is in effect, and instruct them to use Form ST-123 commencing June 1, 2014.

Overview of IDA Sales Tax Exemption Procedures

New Form ST-123 is a simple change in the procedure for claiming IDA sales tax exemptions. This procedure remains somewhat confusing for beneficiaries of IDA financial assistance. With the State's increased focus on IDA financial assistance, sales tax audits of IDA projects will likely become more common. For the benefit of companies receiving IDA financial assistance, following is a brief overview of the recommended procedure for claiming the IDA sales tax exemption:

- IDA appoints the project owner (the “Owner”) as IDA agent, with authority to purchase project-related property and services using the IDA’s sales tax exemption.
 - IDA must file Form ST-60 with NYSDTF to report this agency appointment, within 30 days after the appointment.
- If the IDA’s appointment of the Owner as IDA agent includes the power to appoint sub-agents, then the Owner should enter into sub-agent appointment agreements with its contractors and subcontractors.



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- The Owner must notify the IDA of each sub-agent appointment, so the IDA can sign the required Form ST-60 for the sub-agent.
- Owners and other properly appointed IDA agents and sub-agents claim the sales tax exemption for all purchases by giving their vendors Form ST-123 (after June 1, 2014).
- Contractors and subcontractors who have not been appointed IDA sub-agent claim the sales tax exemption for construction materials by giving their vendors Form ST-120.1.
 - Importantly, contractors and subcontractors who have not been appointed IDA agent or sub-agent cannot use the IDA sales tax exemption for equipment rentals, tools, supplies, and other items that do not become part of the finished project. Contractors and subcontractors must be appointed as agent or sub-agent of the IDA to use the IDA sales tax exemption for these purchases.
- All bills, invoices and other documents for project-related purchases by IDA agents and sub-agents should specifically indicate the purchase is made as agent of the IDA (i.e., name of purchaser is "ABC Company, as agent of _____ County IDA").
- The Owner must file Form ST-340 with NYSDTF, on or before the last day of February each year, reporting the amount of IDA sales tax exemptions claimed for the prior calendar year. The Owner's agreements with its contractors and subcontractors should require the contractors and subcontractors to provide the Owner annual information regarding the amount of sales tax exemptions claimed.
- Owners must also comply with sales tax exemption recapture provisions and other terms and conditions contained in their IDA project agreements.

For further information regarding IDA sales tax exemption compliance requirements, please contact the following:

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