

Below is an excerpt from New York State's "A Guide to Sales Tax for the Film Industry." For the complete guide, contact the New York State Governor's Office for Motion Picture and Television Development at (212) 803-2330, or visit [www.nylovesfilm.com](http://www.nylovesfilm.com).

### **Producers as Manufacturers**

The production of a film is considered a manufacturing activity when the production results in the creation of a film for sale. When making a film for sale, the producer is entitled to all of the exemptions available to manufacturers. However, the producer must register as a New York State sales tax vendor to exercise a right to exemptions. Once registered, the producer may issue the appropriate exemption certificates to its suppliers.

Producers who are not registered as sales tax vendors should request A Guide to Sales Tax in New York State, Publication 28, which contains a registration application form.

### **Exclusions and Exemptions**

#### **Property Used or Consumed in Production**

Machinery or equipment, as well as parts, tools and supplies, used or consumed directly or predominantly in the production of a film for sale may be purchased or leased exempt from all sales and use tax. Machinery or equipment is used predominantly in production if more than 50 percent of its use is directly in the production phase of a process.

The exemptions provided above for machinery predominantly used or consumed in production do not apply to the purchase of property used for administrative purposes. Administration includes such activities as sales promotions, general office work, ordering and receiving materials, making travel arrangements, the preparation of shooting schedules, and the preparation of work and payroll records.

### **Property and Services Purchased for Resale**

A manufacturer registered as a New York State sales tax vendor may make certain purchases for resale. Materials and services on these materials that will become a component of the product sold (e.g., original negative) may be purchased exempt from tax, if a properly completed Resale Certificate, Form ST-120, is issued to the supplier.

### **Installing, Repairing, Maintaining and Servicing**

Charges to install, repair, maintain or service production equipment, parts, tools and supplies are exempt from New York State and New York City taxes.

### **Utilities Used in Production**

Utilities used or consumed directly and exclusively in the production of a film for sale are exempt from tax. However, this exemption does not apply to the New York City tax.

### **Motor Fuels Used in Production**

Motor fuel (e.g., gasoline) or diesel motor fuel used or consumed directly and exclusively in the production of a film for sale is exempt from tax. However, this exemption does not apply to the New York City tax.

New York State and local taxes must be paid on all motor fuel and diesel motor fuel when purchased. However, if the motor fuel or diesel motor fuel is used directly and exclusively in production, the purchaser may claim a refund by filing the appropriate refund application. Application for Refund of Sales on Automotive Fuels, Form FT-500, should be used to claim a refund of sales tax paid on motor fuel (gasoline) and/or diesel motor fuel.

### **New York City Sales and Use Tax**

All of the exemptions described above also apply to the New York City tax, with the following exceptions: The purchase of utilities and fuel used in the production of a film for sale is not exempt from the New York City tax. However, a producer is entitled to claim a credit for the amount of New York City tax paid on electricity and electric service used in the production of a film for sale. The credit is allowed against the New York City General Corporation Tax or Unincorporated Business Tax. In addition, the exemption described above for motor fuel does not apply to the New York City sales and use tax.

### **Exemption Certificates**

Film producers must furnish a properly completed Exempt Use Certificate, Form ST-121, to their suppliers to exempt their purchases of qualifying production machinery, equipment, parts, tools or supplies for use or consumption directly and predominantly in the production of a film for sale. This certificate must also be furnished to those who install, repair, maintain or service the exempt machinery, equipment, parts, tools or supplies.

Producers who purchase tangible personal property that becomes a physical component part of the film and is actually transferred to the consumer must issue a properly completed Resale Certificate, Form ST-120, to their supplier.

A properly-completed exemption certificate must be furnished, and accepted in good faith, no later than 90 days after delivery of the property or service or the sale will be considered a taxable sale. These exemption certificates may only be issued by a person registered as a New York vendor.