

**ADMINISTRATIVE GUIDELINES**  
**SALES AGENT COMMISSIONS**  
**Procedure 440**

*69.05.040(40) The commission paid to an agent for negotiating the sale or lease of tangible personal property on behalf of the owner of the property provided that the commission is the only compensation paid to the agent for negotiating the sale. The commission exemption does not apply to the retail price of the sale or lease of tangible personal property.*

Effective November 15, 2001, the CBJ Assembly amended CBJ 69.05.040 to provide an exemption for certain commissions paid to sales agents.

The scope of this exemption is limited. It does not exempt any and all commissions paid to an agent. Exemption (40) exempts only the commission paid to an agent for negotiating the sale or lease of tangible personal property on behalf of the owner of the property. In addition, the full sale or lease price of the tangible personal property remains subject to the sales tax, and the sale or lease price may not be reduced by the amount of the commission paid to the agent.

There are four elements that must be met for a commission to be exempt from sales tax:

1. Agent status. For a commission to qualify for the exemption, the commission must be paid to an agent of the owner of the property. An agent is a person who has authority to act on behalf of the owner of the property as the owner's representative.\*\*
2. Negotiation. The exemption requires that the commission be paid to the agent for negotiating the sale or lease of tangible personal property to the customer. This would require you to confer with the customer regarding the sale or lease of the product.
3. Tangible personal property. The exemption only applies to a commission paid for negotiating the sale or lease of tangible personal property. A commission paid for negotiating the sale of a service, or a commission paid for providing a service (other than the service of negotiating the sale or lease of tangible personal property on behalf of the owner), would not qualify for the exemption.

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\*\* Note that the negotiating of sales as an agent for the owner provides a presence within the City and Borough that requires the owner of the property to register and report to CBJ Sales Tax. Under CBJ 69.05.010, "Retail sale means any sale of real or tangible personal property, including barter, credit, installment and conditional sales, for any purpose other than resale in the regular course of business. The delivery of property in the City and Borough by a seller whose principal place of business is outside the City and Borough to a buyer or consumer is a retail sale made within the City and Borough if such retailer maintains any office, distribution, or sales house, warehouse or any other place of business, or solicits business or receives orders through any agent, salesman, or other type of representation within the City and Borough." Thus, for example, if Amway has a sales agent within the City and Borough, Amway must register and report its sales and remit sales tax on those sales to CBJ Sales Tax.

4. Commission is the only compensation. The commission paid to an agent for negotiating the sale or lease of tangible personal property on behalf of the owner of the property is exempt only if the commission is the only compensation paid to the agent for negotiating the sale.

In order for a transaction to qualify as exempt from sales tax, the transaction must clearly fall within an exemption defined in CBJ 69.05.040. The exemption provisions are specific in identifying the transactions that qualify for the exemption. All elements listed above must be met in order for the commission to be exempt from the sales tax.

Commissioned sales agents are required to register with the CBJ Sales Tax Office and to report on a periodic basis.