Peculiar

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New York — *Strange Laws Underscore Need for Technology & Expertise to Manage Complex Sales & Use Tax Process*

This week, the Tax & Accounting business of Thomson Reuters revealed a sampling of some quirky 2010 sales and use tax changes, emphasizing the importance of technology and expertise to help navigate the dynamic sales and use tax landscape.

"While some of the changes may seem strange and downright confusing, it highlights just how difficult managing the sales and use tax process can be," said Carla Yrjanson, vice president of Tax Research and Content for Thomson Reuters. "In light of the economy, where government is further relying on sales and use taxes to address budget shortfalls, businesses are finding it especially difficult and costly to achieve compliance with confidence."

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A few of the 2010 "quirky" sales and use tax highlights include:

- **Candy without flour in Washington:** In June of 2010 Washington enacted legislation that made candy without flour taxable. According to a list published by Washington Department of Revenue, "Rainbow Whirly Pops" and "Lemon Drops" were taxable, but "Twizzlers" and "Peppermint Bark Shortbread" remained exempt. However, because the law caused so much confusion, and after push back from voters and the powerful big candy interests, Initiative 1107 was passed and it

that same bagel, but eat it at the bagel shop (even without cream cheese), bagel shops must charge sales tax on the purchase price. Apparently, the mere slicing of a bagel kicks your bagel purchase into a taxable transaction. As a result, New Yorker's are paying approximately 8-9 cents more per bagel.
- **Cup lids in Colorado:** Effective March 1, 2010, Colorado eliminated the exemption for non-essential food items and packaging provided with purchased food and beverage items. So, while cups are considered essential, lids are not.
- **Hot air balloons in Kansas:** On June 30th the Kansas Department of Revenue issued a private letter ruling discussing the taxability of hot air balloon rides. Kansas generally taxes sales of admissions to "any place providing amusement, entertainment or recreation services." The question was not whether or not balloon rides are entertaining, but whether or not federal law preempts the imposition of state sales tax on sales of those rides. Under the Anti-Head Tax Act (AHTA), 29 U.S.C. Section 40116, states and local jurisdictions are prohibited from imposing fees and charges on airlines and other airport users. The Department determined that un-tethered balloon rides where the balloon is actually piloted somewhere "some distance downwind from the launching point" would be considered carrying passengers in air commerce and would be preempted by the AHTA. However, state sales tax can be imposed on tethered balloon rides.
- **Haunted houses in New York:** According to TSB-A-10(11)S, admissions to haunted houses are subject to the New York sales tax.

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