General Rule of Sales Tax
Tangible Personal Property, Intangible Property & Services

- **Tangible**
  All sales of tangible personal property (including films) delivered in New York are subject to tax unless specifically exempted under the law.

- **Intangible**
  Generally, sales of intangible property delivered in New York are not subject to tax.

- **Services**
  Sales of enumerated services, as set forth below, performed on tangible personal property delivered in New York are subject to tax:
  - Producing
  - Fabricating
  - Processing
  - Printing
  - imprinting

Exemptions Related to the Sale and Production of a Film

- **Sales**
  If delivery takes place in New York – taxable unless
  - Purchased for resale (form ST-120) - usually editor and production company transaction.
  - Delivered in intangible format
  - Other exemptions
    Examples:
    1. Used in production (form ST-121)
    2. Used in broadcasting (form ST-121)

- **Purchases**
  Generally, purchases of tangible personal property and services, otherwise subject to tax, are exempt if used directly and predominantly in the production, including editing, dubbing, and mixing of a film for sale regardless of the medium by means of which the film is conveyed to a purchaser.
  - Directly – property is actually used in the production phase of a film (excludes administrative activities)
  - Predominantly – property must be used more than 50% directly in the production of a film.
Post Production

- **Film**
  - Feature
  - Documentary
  - Shorts
  - Television
  - Television commercials.
  - Similar production

- **Stages of Production**
  - Pre-production
  - Production
  - Post-production
  - Sales and distribution

- **Utilities**
  Generally, purchases of utilities services, otherwise subject to tax, are exempt if used directly and exclusively in the production, including editing, dubbing, and mixing of a film for sale regardless of the medium by means of which the film is conveyed to a purchaser.

  Directly – means utilities (i.e., electricity, fuel, etc.) are used during production to operate production machinery or equipment.

  Exclusively – means the utilities are used 100% directly in production.

**Direct Pay from Production Company to Editor**
Relationship between production company and editor (subcontractor) is not changed due to the production company's instruction to the advertising agency that payment be made to the editor.

**NYS Commercial Tax Credit Program**
Designed to increase the production of commercial filming in NYS
Credit up to $7 million per year
- $1 Million credit - 20% of incremental growth
- $3 Million credit - 5% of qualified downstate production over $500,000
- $3 Million credit - 5% of qualified upstate production over $200,000

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