



## A paper bag is a paper bag is a paper bag – except if you’re shopping in New York

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Plastic carry-out bags will become history in New York come March 1, 2020, with only a few exceptions. You can choose to bring your own re-usable bags to the store, or resign yourself to the paper bags that stores will start handing out. While a few stores might give you the paper bags for free, most of the bigger retailers will be charging you 5 cents per bag.

But did you know that in most cases, these paper bags will cost you *more* than 5 cents? What you pay will depend entirely on who gets the money.

New York State gave counties the right to impose a 5-cent fee for each paper bag<sup>1</sup>. Although a number of counties are actively considering doing it, only three so far – Suffolk, Tompkins, and New York City – have done so<sup>2</sup>. If you shop in those places, you have to pay five cents for every paper bag. The county will get to keep two cents per bag, and the state will get the rest. But even if you’re not in those places, many large retailers have decided to charge their customers the same 5 cents for each paper bag. The retailers say that the money raised from this charge will go to charity or other deserving causes.

The money you spend on paper bags may go to the county and state, or it may go to the store you shop at – depending on *where* you are shopping.

That’s just the start. If you’re in one of the counties that has imposed the five-cent paper bag charge, the amount is *not* subject to New York sales tax<sup>3</sup>. It’s not a taxable sale, it’s a “fee”. But if you pay the same five cents to get the same bag at a store outside of those counties? Then New York says that the money collected is ordinary revenue to the store – and is subject to New York sales tax. And it doesn’t matter if you are buying otherwise tax exempt products like food.

Let’s say you go to your local grocery store in New York City and buy \$50 of groceries, and you need three paper bags. Your groceries will cost you \$50 plus fifteen cents. But if you are shopping at a large grocery store in Buffalo or Rochester or Syracuse where the store charges five cents per bag, you will pay \$50 and *sixteen* cents. That is, fifteen cents to the store, and one cent of sales tax to the county and state.

We at Baker, Shore & DiLorenzo feel this is unfair to the New York taxpayer, and that it is important to highlight disparities like these.

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<sup>1</sup> [www.tax.ny.gov/bus/st/paper-carryout-bag-fee.htm](http://www.tax.ny.gov/bus/st/paper-carryout-bag-fee.htm)

<sup>2</sup> NYS Dept. of Taxation and Finance, Publication 718-B

<sup>3</sup> [www.tax.ny.gov/pdf/advisory\\_opinions/sales/a18-3s.pdf](http://www.tax.ny.gov/pdf/advisory_opinions/sales/a18-3s.pdf)