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Failure to collect sales tax reported

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Dozens if not hundreds of Erie County stores are flying under the radar and not collecting sales tax when their competitors are doing so, the Erie County comptroller said Tuesday after his auditors focused on a sample of businesses.

“It is important to the many businesses in Erie County to know that there is equity in the sales tax system,” Comptroller Mark C. Poloncarz said. “To allow someone to cheat the system is to punish the honest and hardworking business people of Erie County.”

He said his auditors found an array of businesses — a jewelry store, a convenience store, an auto repair shop, a used clothing store — where the proprietors somehow believed they were not required to collect sales tax.

Brad Maione, a spokesman for the state Department of Taxation and Finance, which polices the collection of sales tax, called Poloncarz’s report useful and said the state’s tax collectors will use it to decide whether to begin enforcement actions.

Following a similar study by auditors in Hall County, Ga., Poloncarz asked his audit team to check the entities that had filed “doing business as” certificates with the County Clerk’s Office last year to determine whether, as required, they had obtained certificates to collect sales tax, or certificates indicating they provide a tax-exempt service.

The auditors found 606 businesses with no such certificates and sent them

letters to ask whether they were exempt from the tax or whether they were collecting

it.

More than half, 323, did not respond, Poloncarz said. One-hundred seven came back in the mail unopened, an indication that the businesses had closed or moved.

Forty responded by saying they in fact were collecting the sales tax and forwarding it to Albany, though that could not be confirmed in all cases.

Finally, 136 said they were not required to collect the tax. Sales by some businesses on that list are taxable, including a store selling custom bridal gowns and a bed-and-breakfast, which also was not collecting Erie County's hotel occupancy tax, Poloncarz said.

He said his auditors might have found many more businesses not collecting sales tax had they sampled those that filed doing-business-as certificates from previous years. Without sales figures, he said he could not calculate how much sales tax revenue had been lost by the county and state governments, plus the municipalities and school systems that in Erie County share sales tax proceeds.

The sales tax rate in Erie County, one of the the highest in the state, is 8.75 percent, including the 4 percent rate levied by the state.

Poloncarz said the state Taxation and Finance Department had asked him not to name the businesses failing to collect sales tax because the agency might begin enforcement actions. But he said he doubted that the business owners intended to evade the law.

"In the end, I think it comes down to people opening up businesses and not knowing what they are getting into," he said.

At a news conference announcing his findings, Poloncarz said that kind of report could not be completed without a county audit team.

In next year's proposed budget, County Executive Chris Collins, who dislikes Poloncarz and ran a candidate against him last year, cut the comptroller's staff by 36 percent, reducing the auditing team to two from seven employees.

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