



Sales and Use Tax for Samples by Manufacturers/Retailers

This publication provides general information and is not meant to be a substitute for tax laws or regulations.

The liability of manufacturers for sales tax on purchases for use in business is determined by referring to the direct use concept (see [TSD 358](#)). This means that the applicability of the sales and use tax depends on the *use* of the property or service instead of the type of property or service purchased. **A purchase of an item or service may be taxable in one transaction and exempt in another, depending on the service or use of the item purchased.** This is because purchases that are directly used as an essential part of a manufacturing activity are exempt from sales and use tax, while purchases that are merely incidental, convenient, or remote to the activity are taxable.

Taxability of Samples

The fair market value of samples distributed in the advertising or marketing of products is subject to sales and use tax. Use of items in the marketing of products is not considered to be direct use in manufacturing. **The only special exemption available to either wholesalers or retailers is the exemption for purchases made for resale.** Wholesalers and retailers must generally pay tax on all other purchases for use in business.

Purchases of items for free distribution as samples are not purchases for resale—they are purchased for use in business. Tangible personal property or services used in advertising or in marketing of goods, including the withdrawal of salesman's samples from inventory for distribution to potential customers, are subject to tax.

If you are in the business of selling products where the common practice is to give samples of your products to your customers, then you must pay sales and use tax on the fair market value of the samples when they are withdrawn from inventory for distribution.

An additional municipal sales or use tax of 1% may also apply if you are located within the boundaries of a municipality that imposes a municipal sales and use tax. For a list of municipalities, effective dates and rates, visit tax.wv.gov.

For more information, you can:

- Call a Taxpayer Services Representative at (304)558-3333 or toll-free at (800) 982-8297
- Email taxhelp@wv.gov
- Go Online to tax.wv.gov