



SALES TAX AND VENDOR RESPONSIBILITIES

This publication describes state and municipal sales tax responsibilities arising from selling or leasing tangible personal property or providing services in West Virginia. The rules discussed in this publication do not apply to sales of gasoline or special fuels. This publication provides general information. It is not a substitute for tax laws or regulations.

GENERAL INFORMATION

- If you sell or lease tangible personal property or provide a service in West Virginia, you are a vendor required to collect sales tax on each sale, lease or service provided unless an exception applies. An additional municipal tax may also apply. For a list of municipalities, effective dates and rates, visit our website at:
<https://tax.wv.gov/Business/SalesAndUseTax/Pages/SalesAndUseTax.aspx>
 - All sales, leases and services are presumed taxable. The burden of proof that a sale is exempt from the tax rests with the vendor.
 - You must collect sales tax regardless of whether you make sales as an individual, a partnership, a corporation, a governmental agency other than a county in the normal course of local government operations, or any other entity. Even non-profit organizations that are exempt from federal and state income taxes must collect sales tax in many cases.
- As a vendor required to collect sales tax, you are a trustee of the State. You must keep accurate records containing all the information needed to prepare your returns and to verify their accuracy.
 - No one set of recordkeeping rules can apply to all vendors. Your records must be geared to your operation and any recordkeeping equipment you use.
 - If you fail to collect tax that should have been collected, you will be held personally liable for payment of the tax.

EXCEPTIONS TO THE COLLECTION REQUIREMENT

- There are only two exceptions to the requirement that vendors collect sales tax on each sale, lease or service provided in West Virginia. You are not required to collect sales tax:
 - (1) If the sale, lease or service is a “per se” exemption; or
 - (2) If your customer provides a properly completed exemption certificate or direct pay permit applicable to that transaction.

“PER SE” EXEMPTIONS

- The term “per se” means by, of, or in itself. When used in the context of sales tax exemptions it refers to exemptions that do not require a special exemption document as proof of exempt status. Generally, the normal documentation of the sale is sufficient proof of exemption.
- Even if you engage solely in transactions that are per se exempt from sales tax, you must keep sufficient records to substantiate the exemption for each sale and service.
- Please refer to Publication [TSD-300](#) for a more detailed discussion of per se exemptions and associated recordkeeping considerations.

EXEMPTION DOCUMENTS

- If a transaction is not per se exempt, you are not required to collect sales tax if you obtain a properly completed exemption document applicable to that transaction.
- There are a three types of exemption documents recognized in West Virginia:
 - Tax exemption certificate,
 - Direct pay permit, and
 - Documents pertaining specifically to contractors
- Please refer to Publication [TSD-300](#) for a more detailed discussion of exemption documents and associated recordkeeping considerations.

**CUSTOMER
CANNOT OR DOES
NOT PRESENT AN
EXEMPTION
DOCUMENT AND
REFUSES TO PAY
SALES TAX?**

- If the vendor notifies the Tax Commissioner in writing of such refusal by the customer, the vendor may be relieved of any liability. The notification must include the name and, if known, address of the purchaser, the purchase price of the item, and the amount of tax not collected.

TAX COLLECTION

- As a rule, you must separately state the sales tax from the sales price or other consideration for a sale or lease of tangible personal property or performance of a service.
- Typically, you should state the amount of tax on the invoice, receipt or billing document provided to your customer.
- Similarly, sales tax should be separately stated on your documents of original entry (like receipts, invoices, cash register tapes) and the supporting entries in your books of account.
- Sometimes vendors will include tax in the overall sales price of items like movie tickets or a hot dog at a ball game. If a ticket or receipt is given to the customer, the ticket must either indicate the amount of tax collected or include the phrase "West Virginia sales tax included in price" or a substantially similar phrase. If a ticket or receipt is not given to the customer, a sign must be posted in plain view to customers that includes the phrase "West Virginia sales tax included in price" or a substantially similar phrase.
- It is a crime for any vendor to represent directly or indirectly to the public that sales tax will be absorbed by the vendor or that the tax is not added to the sales price.

RECORDKEEPING

- You must maintain complete and accurate records relating to all sales and leases of tangible personal property and services. These records must be:
 - Maintained for three years or so long as the taxable period remains open to assessment or refund, whichever is greater.
 - Made available to the Tax Department for audit upon request.
- For all transactions, you should maintain:
 - Documents of original entry (receipts, invoices, cash register tapes, etc.)
 - Ledgers, journals or other books of account ordinarily maintained by the average prudent person engaged in your business activities
 - All schedules, working papers or other documents used in connection with the preparation of tax returns (summaries, tabulations of invoices, cash register tapes, etc.)
- For exempt transactions, in addition to the above documents, you should maintain:
 - Documents supporting per se exempt sales.
 - Exemption documents received from customers

**BUSINESS
EXAMPLE**

- The following scenario provides an example of sales transaction and recordkeeping requirements.

Bob Jones owns and operates a general store in West Virginia. Over the years his small store has grown to include a pharmacy, snack bar and video arcade. Bob does his own bookkeeping, it helps him keep a handle on things. His accountant comes in every quarter to check his work and prepare financial reports. This month Bob is going to have to make some changes in the way he keeps his records. He was recently audited by the State Tax Department and had just had a meeting with the tax examiner and his accountant to go over the audit findings. The audit was going to cost him a bundle and he is determined not to let that happen again. He made a list of the things he needed to do.

➤ **Grocery Department**

Sales

1. Always collect sales tax on the gross amount of sales paid for with manufacturer's coupons. Only store coupons and promotions qualify as a discount.

2. Write a separate sales receipt for sales of cleaning supplies to city hall and the local church and be sure to get a completed and current tax exemption certificate to keep on file. A cash register receipt is not acceptable proof of a sale to an exempt purchaser.
3. Balance "food stamp" sales with food stamp receipts. Clerks have been recording certain non-food items which do not qualify as food stamp purchases and not collecting the proper amount of sales tax. Train clerks.
4. Collect the five percent municipal wine tax on all sales of wine. This is in addition to the six percent sales tax.
5. Establish separate accounts in daily sales journal for the above.

Purchases

1. Write to Ace Office Supply Company and tell them to charge sales tax on my purchases because the old exemption certificate I gave them several years ago is not valid.
2. Review all invoices from out-of-state suppliers. Pay use tax on all purchases if they did not collect West Virginia sales tax (except purchases for resale).
3. Pay use tax on all paper and cleaning supplies taken off the store shelf for use in the store, the pharmacy and the snack bar.
4. Pay use tax on groceries I took home for my own personal use.
5. Pay use tax on the turkeys I gave my employees for Thanksgiving.

➤ Pharmacy

Sales

1. Collect sales tax on all over the counter medications. Do not ring these up as "Rx".
2. Set up filing, accounting system for prescriptions to relate the prescriptions filled to my "per se" exempt sales.

Purchases

1. Send exemption certificate to Professional Medical Supply Company for purchases of medicine bottles used to fill prescriptions. These qualify as resale items.
2. Review invoices from all out-of-state suppliers. Pay use tax on all purchases if they do not collect West Virginia sales tax (except for purchases for resale items).

➤ Snack Bar/Video Arcade

Sales

1. There is no cash register in the snack bar and all prices were even amounts. (Hotdogs-75¢, Chips-50¢, Cokes- 50¢, etc.). Tax would have to be computed using the formula given by the tax examiner. A sign would also need to be posted stating that the sales tax was included in the price of the products sold.
2. The formula to compute the sales tax included in the price charged to play the video games would have to be used. The commission paid to the clerk who made change and supervised the game room could not be deducted.

EXAMPLE OF SIGN POSTING

West Virginia Sales Tax is Included in
the Price of the Products Sold Here

**ASSISTANCE AND
ADDITIONAL
INFORMATION**

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS
(1-800-982-8297)**

Or visit our website at:

www.tax.wv.gov

File and pay taxes online at:

www.mytaxes.gov
