

West Virginia State Tax Department

Internal Auditing Division

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Business Registration Tax

(West Virginia Code § 11-12-1 -- 11-12-31)

W. Va. Code §11-12-20 -- 11-12-24
Transient Vendor Registration
Effective: July 1, 1986

W. Va. Code § 11-12-20. Registration of Transient Vendors.

- A. Prior to conducting business or otherwise commencing operations within this State, a transient vendor shall obtain a business registration certificate from the Tax Commissioner and pay the tax imposed by this article.
- B. Upon receipt of the application for business registration and the posting of the bond required by section twenty-one of this article, the Tax Commissioner shall issue to the transient vendor a business registration certificate, which shall be valid for the current registration period, if the application is complete and the transient vendor is not delinquent in the payment of any tax imposed by this chapter. Upon renewal of the registration, the Tax Commissioner shall issue a new certificate, valid for the next ensuing registration period, provided he or she is satisfied that the transient vendor has complied with the provisions of this article and is not delinquent in the payment of any tax imposed by this article.
- C. The transient vendor shall keep the business registration certificate in his or her possession at all times when conducting business within this State. He or she shall publicly display the certificate whenever conducting business in this State and shall exhibit the certificate upon the request of an authorized employee of the Tax Commissioner or any law enforcement officer.
- D. The business registration certificate issued by the Tax Commissioner shall constitute notice that the transient vendor named therein has registered with the Tax Commissioner, and shall provide notice to the transient vendor that:
 1. Before entering this State to conduct business the transient vendor must notify the Tax Commissioner, in writing, of the location or locations in this State where he or she intends to conduct business, and the date or dates on which he or she intends to conduct such business.
 2. Failure to notify, or the giving of false information to the Tax Commissioner is grounds for suspension or revocation of the transient vendor's business registration certificate.
 3. Conducting business in this State without having a valid business registration certificate after such certificate has been suspended or revoked, may result in criminal prosecution or the imposition of fines, or other penalties, or both for violation of this article.
- E. Definitions - For purposes of this section:
 1. "Transient Vendor" means any person who:
 - a. Brings into this State, by automobile, truck or other means of transportation, or purchases in this state, tangible personal property the sale or use of which is subject to one or more taxes administered by the Tax Commissioner under article ten of this chapter;
 - b. Offers or intends to offer such tangible personal property for sale to consumers in this State; and
 - c. Does not maintain an established office, distribution house, sales house, warehouse, service enterprise, residence from which business is conducted, or other place of business within this State.
 2. The term "transient vendor" shall not include any person who:
 - a. Is a commercial traveler or selling agent who sells only to persons who purchase tangible personal property for purposes of resale to others;
 - b. Only sells goods, wares or merchandise by sample catalog or brochure for future delivery;
 - c. Only sells or offers for sale crafts or other handmade items that were made by the seller; or
 - d. Only sells agricultural and farming products, except nursery products and foliage plants.

W. Va. Code § 11-12-21. Bonds of Transient Vendors.

- A. With its application for a business registration certificate, a transient vendor shall post a bond with the Tax Commissioner in the amount of five hundred dollars as surety for compliance with the provisions of this article. After a period of demonstrated compliance with these provisions, the Tax Commissioner may reduce the amount of the bond required of a transient vendor or may eliminate the bond entirely.
- B. A transient vendor may file with the Tax Commissioner a request for voluntary suspension of its business registration certificate. If the Tax Commissioner is satisfied that the transient vendor has complied with the provisions of this article and has relinquished to the Tax Commissioner possession of the transient vendor's business registration certificate, the Tax Commissioner shall return to the transient vendor the bond it posted.

W. Va. Code § 11-12-22. Notification to Department.

Prior to entering this State to conduct business, a transient vendor shall notify the Tax Commissioner, in writing, of the location or locations where he intends to conduct business and the date or dates when he or she intends to conduct such business.

W. Va. Code § 11-12-23. Revocation of certificate of transient merchant.

The Tax Commissioner may suspend or revoke a business registration certificate issued to a transient vendor if the transient vendor:

- 1. Fails to notify the Tax Commissioner as required by section twenty-two of this article.
- 2. Provides the Tax Commissioner with false information regarding the conduct of his business by it within this State.
- 3. Fails to collect and timely pay over consumers sales and service tax or use tax with regard to all sales of tangible personal property and services sold by him that are subject to the taxes imposed by article fifteen or fifteen-a of this chapter.
- 4. Fails to timely file with the Tax Commissioner any tax return required to be filed by law or regulation for any tax administered by article ten of this chapter, or fails to timely pay the amount of tax shown thereon to be due.
- 5. Fails to comply with the provisions of section eight, article five of this chapter, providing for assessment and payment of ad valorem property taxes on any goods or merchandise of a transient vendor to be offered or furnished for sale in this State.

W. Va. Code § 11-12-24. Seizure of property of transient vendor.

- A. If a transient vendor conducting business within this State fails to exhibit a valid business registration certificate upon demand by an authorized employee of the Tax Commissioner, such employee or any peace officer of this State at the request of such employee shall have authority to seize, without warrant, the tangible personal property and automobile, truck or other means of transportation used to transport or carry that property. All property seized shall be deemed contraband and shall be subject to immediate forfeiture proceedings instituted by the Tax Commissioner under procedures adopted by regulation, except as otherwise provided by this section.
- B. Property seized under subsection (a) shall be released upon:
 - 1. Presentation of a valid business registration certificate to an authorized employee of the Tax Commissioner; or
 - 2. Registration by the transient vendor with the Tax Commissioner and the posting of a bond in the amount of five hundred dollars, either immediately or within fifteen days after the property is seized.