



FLOOD VICTIMS GRANTED RELIEF FROM CONSUMERS SALES AND SERVICE TAX AND USE TAX

The purpose of this notice is to explain and clarify the application of Executive Orders 10-09 and 12-09 that were signed by Governor Joe Manchin on May 13, 2009 and June 10, 2009, respectively, regarding the State of Emergency resulting from a storm system of heavy rains that caused severe flooding, flash flooding, river flooding, mudslides and landslides throughout West Virginia.

Pursuant to Executive Order 10-09, designated flood disaster counties include Boone, Logan, McDowell, Mingo, Raleigh and Wyoming counties. This order exempts the purchase of mobile homes, house trailers, modular homes, similar units and the service of installation from Consumer's Sales and Service Tax and Use Tax. However, this order does not exclude the \$20.00 West Virginia Affordable Housing Trust Fund Fee. The exemption authorized by Executive Order 10-09 applies to eligible purchases made on or after May 13, 2009, and on or before June 10, 2009.

Pursuant to Executive Order 12-09, Governor Joe Manchin announced on June 12, 2009 that the State of Emergency issued due to excessive rain and flooding that occurred early last month, will be extended to help continue the response and recovery effort. The State of Emergency extension will be in effect through July 10, 2009, unless extended or rescinded by the governor. In addition to the State of Emergency, the Sales and Use Tax exemption that was issued by the governor last month will also be extended through July 10, 2009 for certain counties.

The State of Emergency will no longer apply to the contiguous counties - except as noted, and no longer applies to Boone and Logan Counties. Counties now included in the State of Emergency and who are exempt from the Sales and Use Taxes for certain flood relief related products are: Calhoun, McDowell, Mercer, Mingo, Raleigh and Wyoming.

This exemption includes building construction materials and supplies used or consumed in the repair, restoration, reconstruction or replacement of structures damaged by flooding. It also includes bottled water, cleaning supplies and other supplies for flood relief.

Examples of materials and supplies that may be purchased tax exempt include, but are not limited to:

- bathtubs
- brick
- cement
- block
- central heating or central air conditioning units and ductwork
- circuit breakers and circuit breaker panels
- decking
- doors, interior and exterior
- electrical wall switches, electrical receptacles and fuse boxes
- electric wiring
- floor coverings, including wall-to-wall carpeting
- hot water heaters
- insulation
- kitchen cabinets and counters
- lumber
- nails and screws
- paint
- plumbing supplies and fixtures
- plywood
- roofing
- siding
- sump pump
- wall board
- wall paneling
- wallpaper
- well pumps, related pressure switches and water supply tanks
- windows

The exemptions allowed by Executive Orders 10-09 and 12-09 do **not** apply to the replacement or repair of tangible personal property that, although destroyed, is not classified as a permanent fixture to the structure. The exemption does not apply to non-essential or luxury items or to typical household appliances.

Examples of taxable purchases include, but are not limited to:

- all terrain vehicles
- backhoes
- boats
- bulldozers
- chain saws
- clothes dryers
- computers
- cooking utensils, pots and pans
- dishwashers (whether or not built-in)
- draperies
- endloaders
- excavators

- floor fans
- food
- four wheel vehicles
- freezers
- furniture
- guns
- hand tools
- hot tubs or components thereof
- lawnmowers
- microwave ovens (whether or not built-in)
- power washers
- radios (AM, FM, shortwave, receiver or transmitter, walkie talkie)
- refrigerators (whether or not built-in)
- skip loaders
- stoves (whether or not built-in)
- swimming pools or components thereof
- tangible personal property used in carrying on a business*
- television
- satellite dishes
- welders

*Purchases of tangible personal property used in carrying on a business are taxable unless the purchase is exempt under a provision of law other than Executive Order 10-09. For example: Purchases of some business inventory items may be subject to the purchase for resale exemption of W. Va. Code §11-15-9(a)(9).

Bottled water, cleaning supplies and other supplies for flood relief.

Purchases of bottled water, cleaning supplies and other supplies for flood relief are exempt “per se” from the tax.

“Bottled water” does not include soft drinks, beer or any alcoholic beverage or “near beer” or any flavored or carbonated beverage or any beverage other than water.

“Cleaning supplies” means the following:

- abrasive and non abrasive cleaners
- air fresheners
- bleach
- disinfectants
- dishwasher detergents, soaps and additives
- dish soap
- floor polish
- floor wax
- glass cleaner
- hand and bath soap
- hand sanitizer
- laundry additives
- laundry soap
- laundry stain remover
- leather cleaner and conditioner
- marble fiberglass and countertop cleaners
- metal cleaners & polish
- mildicide
- mold, mildew, rust & lime cleaners
- mopping solution
- multi-purpose & all-purpose cleaners
- oven cleaner
- rust & stain remover
- soft scrubbing cleaner
- shampoo
- stone cleaner
- toilet bowl cleaners
- tub & tile cleaners
- upholstery spot remover
- wood polish

“Other supplies for flood relief” means the following items:

- brooms
- buckets
- camping type portable toilets
- dish cloths
- dish mops
- disposable Tyvek and similar overalls & protective clothing
- duct tape
- dustpans
- face masks with breathing filters
- floor scrapers
- floor squeegees
- garbage bags
- rolls of heavy plastic, sheet plastic and tarpaulins
- rubber, vinyl and similar chemical resistant gloves
- rubber boots
- scouring pads
- scrub brushes
- sheets of plywood (for temporary walkways, and staging areas for debris cleanup)
- shovels
- snow shovels which can be used as a substitute for a floor scraper
- sponges
- spray canisters and backpack sprayers for applying mildicide and disinfectants

- garden hoses and nozzles
- hoes
- mattocks
- mop buckets
- paper towels
- pulaski tools
- rakes
- toilet brushes
- towels
- trash cans
- wet & dry mops
- wet floor signs
- work gloves

Who is eligible to claim the exemption?

The exemption for purchases of mobile homes may be asserted by a person who has been rendered homeless by the flooding. The mobile home exemption is also available for a contractor or other person purchasing a mobile home for or on behalf of a person rendered homeless by the flooding.

The exemption for purchases of building materials may be asserted by the property owner who suffered flood related damage or by a contractor or other person making purchases on behalf of the property owner.

The contractor may only assert the exemption for allowable building construction materials and supplies that are purchased for direct and immediate use and consumption in the construction of the residential property or commercial structure to which the exemption certificate applies.

The contractor may only assert the exemption in relation to construction of qualified structures located within the State of West Virginia.

How to make tax exempt purchases.

A person seeking to make exempt purchases of a mobile home or building materials and supplies should file a West Virginia Consumer's Sales and Service Tax and Use Tax Flood Exemption Certificate, and must attach a verification document to the completed exemption certificate. In the case of mobile home purchases, the purchaser must attach a copy of the FEMA Housing Assistance Letter addressed to the person that was rendered homeless by the flooding. In the case of purchases of building materials and supplies, the purchaser must attach a copy of the FEMA Housing Assistance Letter or a copy of proof of settlement of an insurance claim for flood damage or an insurance adjuster's record of damage inspection.

As mentioned above, bottled water, cleaning supplies and other supplies for flood relief are exempt "per se" from the tax when made in any designated flood disaster county. Therefore, when these purchases are made, no proof of exemption is required.

Purchases of these items by a church, volunteer fire department or any organization exempt from tax under section 501 (c) of the Internal Revenue Code which are intended to be distributed to distributes at no cost for flood relief that will be delivered into a designated flood disaster county, may be made exempt from the tax.

The Flood Exemption Certificate is available at the Taxpayer Services Division of the West Virginia State Tax Department, 1206 Quarrier Street, Charleston, West Virginia, all West Virginia State Tax Department field offices, local Disaster Recovery Locations, county court houses and municipal buildings in the flood areas, at many local hardware and home supply stores and at the offices of many mobile home dealers in or near the flood areas.

Extension to file Consumer's Sales and Service Tax and the Use Tax return.

Governor Manchin, in Executive Order 11-09, announced that West Virginia will extend the May 20, 2009 filing deadline for all vendors in Boone, Logan, McDowell, Mingo, Raleigh and Wyoming counties required to file and remit the Consumer's Sales and Service Tax and the Use Tax for the month ending April 30, 2009 until June 20, 2009. Taxpayers affected by the flooding will have until midnight June 20, 2009 to meet their tax filing obligations without incurring late filing and late payment penalties.

Note that this due date has not been extended by the Executive Orders discussed above. The due date for filing the Consumer's Sales and Service Tax and Use Tax returns, and for remittance of tax collected is June 20, 2009.

Taxpayers filing Form WV/CST-200CU under the extension should write "**Flood Extension**" on the top of the first page of the return.

Additional information regarding the flood can be found on our website at www.wvtax.gov. This includes Governor Manchin's press releases, Executive Order 10-09, Executive Order 12-09, Special Notice 09-01, Form WV/CST-285 (Consumer's Sales and Service Tax and Use Tax - Flood Exemption Certificate) existing and emergency Legislative Rules.

If you have any questions, please contact:

West Virginia State Tax Department
 Taxpayer Services Division
 Post Office Box 3784
 Charleston, West Virginia 25337-3784

Telephone: (304) 558-3333 or Toll Free 1-800-WVA-TAXS (1-800-982-8297)