



WEST VIRGINIA SALES TAX HOLIDAY

West Virginia's sales tax holiday exemption **begins Friday, August 6, 2004 at 12:01 a.m. and ends on Sunday, August 8, 2004 at midnight, eastern daylight time.**

During this period, the following sales are per se exempt from the 6% consumers sales tax:

- The sale of an article of clothing or footwear designed to be worn on or about the human body if the sale price for each article is **less than \$100.00**;
- The sale of general school supplies to be used in the classroom if the sale price for each item is **less than \$100.00**;
- The sale of individual computers or computers and computer accessories sold as a "package" if the sale is **less than \$750.00** after credit for manufacturer's coupons and/or manufacturer's rebate; and
- The sale of computer accessories and calculators if the sale is **less than \$100.00** after credit for any manufacturer's rebate.

This exemption **does not** apply to the following:

- The rental of clothing, footwear or school supplies;
- Purchases of furniture;
- Purchases of tangible personal property for use in a trade or business; or
- Purchases paid through the use of a business check or business credit card.

"Clothing" means any article of wearing apparel intended to be worn on or about the human body.

Example: A customer purchases a tie for \$50.00 and a shirt for \$55.00. The purchase of the tie and shirt qualify for the exemption because they are each under \$100.00.

Clothing **does not include** accessories and clothing or footwear intended primarily for use as athletic or sporting gear such as golf shoes or football uniforms.

Accessories include jewelry, handbags, luggage, umbrellas, wallets, watches, wigs, purses, briefcases, barrettes, cuff links, hair bows, clips, eyewear and other similar type items.

Example: A customer purchases a gold pin for \$99.00. The purchase would not qualify for the exemption because the item is an accessory.

Athletic footwear which is not normally worn except when used for athletic or sporting activities such as golf shoes, football cleats, or track spikes is not exempt.

Example: A customer purchases a football uniform for \$75.00 and football cleats for \$50.00. The purchase would not qualify for the exemption because these items are primarily designed for use as athletic or sporting gear.

The sale of general school supplies to be used in the classroom or for classroom related activities, such as pens, pencils, binders, notebooks, dictionaries, book bags, backpacks, lunch boxes is exempt if the **sale price for each article** is less than \$100.00.

Example: The purchase of a dictionary for \$30.00 is exempt.

The purchase of ten composition books for \$2.50 each item, the total of which is \$25.00 qualifies for the exemption.

Computer accessories and calculators are exempt if the sale price is less than \$100.00 after credit for any manufacturer's rebate.

Example: The purchase of a calculator for \$30.00 is exempt.

A customer purchases a monitor for \$150.00. The purchase will not qualify for the exemption because it is in excess of \$100.00.

A customer purchases a computer printer for \$190.00 but because of a manufacturer's rebate of \$100.00, the cost of the printer to the purchaser is \$90.00. The rebate is made to the purchaser, not the vendor. Therefore, even though the purchase of the printer is exempt, the purchaser is required to file a claim with the Tax Department for a refund of the sales tax paid to the vendor.

A customer purchases a computer package that consists of a computer, monitor and a printer for \$700.00. The purchase qualifies for the exemption because it is less than \$750.00. Another customer purchases a personal computer base unit for \$480.00, a monitor for \$100.00 and a printer for \$120.00. Because the monitor and printer were purchased in the same transaction as the personal computer base unit and the total cost is less than \$750.00, the purchase qualifies for the exemption.

Furniture and any systems, devices, software or peripherals designed or intended primarily for recreational use do not qualify for the exemption.

The following types of purchases may be used as guidelines to determine if the purchase is taxable or exempt:

Articles normally sold as a unit.

Articles that are normally sold as a unit must continue to be sold as a unit. They cannot be separately stated and sold as individual items in order to obtain the exemption.

Example: A pair of shoes normally sells for \$120.00. The pair cannot be split in order to sell each shoe for \$60.00 to qualify for the exemption.

Sets containing both exempt and taxable items.

When exempt items are normally sold together with taxable merchandise as a set or single unit, the full price is subject to sales tax.

Buy one, get one free or for a reduced price

The total price of items advertised as "buy one, get one free" or "buy one, get one for a reduced price" cannot be averaged in order for both items to qualify for the exemption.

Example: A retailer advertises pants as "buy one, get one free." The first pair of pants is priced at \$110.00; the second pair of pants is free. Tax is due on \$110.00. The store cannot sell each pair at \$55.00 in order for the items to qualify for the exemption. However, the retailer may advertise and sell the items for 50% off, selling each pair of \$110.00 pants for \$55.00, making each pair eligible for the exemption.

Example: A retailer advertises shoes as “buy one pair at the regular price, get a second pair for half price.” The first pair of shoes is sold for \$120.00; the second pair is sold for \$60.00 (half price). Tax is due on the \$120.00 shoes, but not on the \$60.00 shoes. The store cannot sell each pair of shoes for \$90.00 in order for the items to qualify for the exemption. However, a retailer may advertise each pair for 25% off, thereby selling each pair of \$120.00 shoes for \$90.00, making each pair eligible for the exemption.

Exchanging a tax-exempt purchase after the Holiday ends.

When a customer purchases an eligible item during the Holiday and later exchanges the item for the same item (different size, different color, etc.), no additional tax will be due even if the exchange is made after the Holiday ends.

When a customer purchases an eligible item during the Holiday and later returns the item and receives credit on the purchase of a different item, the appropriate sales tax will apply to the full sales price of the newly-purchased item.

Example: During the Holiday, a customer purchases an \$85.00 dress that qualifies for the exemption. Later, during the Holiday, the customer exchanges the \$85.00 dress for a \$125.00 dress. Tax is due on the \$125.00 dress. The \$85.00 credit from the returned item cannot be used to reduce the sale price of the \$125.00 item to \$40.00 for exemption purposes.

Example: A customer purchases a \$35.00 shirt during the Holiday. After the Holiday ends, the customer exchanges the shirt for a \$35.00 jacket. Since the jacket was not purchased during the Holiday tax is due on the \$35.00 price of the jacket.

Returning an eligible item

When a customer returns an eligible item purchased during the Holiday, the retailer should refund tax only if the customer produces a receipt or invoice showing tax was paid on the item, or if the retailer has sufficient documentation to show that tax was paid on the specific item.

Coupons, rebates and discounts

Manufacturer’s coupons do not reduce the sale price of an item. Therefore, a manufacturer’s coupon cannot be used to reduce the selling price of an item to less than \$100.00 in order to qualify for the exemption.

Store coupons and discounts reduce the sale price of an item. Therefore, a store coupon or discount can be used to reduce the sale price of an item to less than \$100.00 in order to qualify for the exemption.

Gift certificates

The sale of a gift certificate is not taxable. Eligible items sold and delivered during the Holiday using a gift certificate will qualify for the exemption regardless of when the gift certificate was purchased. Eligible items sold and delivered after the Holiday using a gift certificate are taxable even if the gift certificate was purchased during the Holiday. A gift certificate cannot be used to reduce the selling price of an item to under \$100.00 in order for the item to qualify for the exemption.

Rain checks

Eligible items sold and delivered during the Holiday using a rain check will qualify for the exemption regardless of when the rain check was issued. However, issuance of a rain check during the Holiday will not qualify an eligible item for the exemption if the item is actually sold and delivered after the Holiday.

Layaway sales

Layaway sales are exempt if, during the Holiday, an item is placed on layaway or, if during the Holiday, an item is taken out of layaway.

Mail order sales

For purposes of this exemption, eligible items purchased by mail order or catalog, including transactions over the Internet, will receive the exemption only if the eligible items are ordered during the Holiday.

Repairs and alterations

Repairs and alterations to eligible items do not qualify for the exemption even though alterations may be sold, invoiced, and paid for at the same time as the item to be altered.

Example: A customer purchases a pair of pants for \$99.00, and pays \$5.00 to the retailer to have the pants cuffed. The \$99.00 charge for the pants is exempt; however, tax is due on the \$5.00 alteration charge.

Refunds

Vendors should refund sales tax to any customer who was charged tax on an exempt item purchased during the holiday period. Customers who were charged sales tax by a vendor for an exempt purchase should take their tax paid receipt to the vendor to obtain the refund.

If a vendor has not already remitted the tax to the West Virginia State Tax Department, the vendor should refund the tax to the customer. If the vendor has previously remitted the tax to the State Tax Department, the vendor may refund the tax to the customer and then take a credit for the tax refunded on the vendor's Sales and Use Tax Return.

Customers who paid tax on computers, computer accessories and calculators that subsequently qualify for the exemption due to the application of a manufacturer's rebate should apply to the State Tax Department for a refund.

Refunds will not be made on purchases made outside of this State.

A list of exempt and taxable items is available on the West Virginia State Tax Department's web site at <http://www.state.wv.us/taxdiv>.

If you have any questions, please contact:

West Virginia State Tax Department
Taxpayer Services Division
P. O. Box 3784
Charleston, West Virginia 25337-3784
Telephone: (304) 558-3333 or
Toll Free 1-800-WVA-TAXS (1-800-982-8297)