



## TAXABILITY OF INTERNET SALES MADE BY WEST VIRGINIA RETAILERS

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This publication is meant to be a source of general information regarding internet sales and is not a substitute for tax laws and regulations.

West Virginia retailers who make sales of products to customers are required to collect and remit applicable consumers sales tax on those items sold to West Virginia customers over their Internet web sites, just as they normally collect and remit tax on items or products sold through traditional West Virginia sales outlets.

Sales by West Virginia vendors to West Virginia customers over the Internet are not interstate sales transactions, and are not exempt under the Interstate Commerce Clause of the U.S. Constitution. These sales are subject to West Virginia sales tax. The West Virginia Internet retailer should collect and report tax on these sales just as would any other West Virginia retailer on products purchased by the customers at the retailer's sales outlet.

The fact that West Virginia retailers may be selling their products or items to West Virginia customers over the Internet does not relieve them of their consumers sales tax collecting and reporting responsibilities. The federal 1999 Internet Tax Freedom Act does not exempt from state tax those products sold over the Internet by West Virginia retailers to West Virginia customers. Such sales are subject to the West Virginia Consumers Sales and Service Tax.

The Internet Freedom Act specifically provides for a three-year moratorium from October 1, 1998 to October 21, 2001 on taxing Internet access charges. West Virginia does not tax Internet access charges. It also prohibits double taxation and prohibits taxes which treat Internet sales transactions differently than other sales transactions. The Internet Tax Freedom Act also established an Advisory Commission on Electronic Commerce to study tax policy issues related to electronic commerce. The Advisory Commission is responsible for issuing a report to Congress, recommending policies addressing electronic commerce and the electronic marketplace.

Products and services that are purchased from an out of State retailer through Internet transactions and received or used in West Virginia are subject to the West Virginia Use Tax. West Virginia individuals who are not engaged in a commercial business in West Virginia and who receive goods or services from outside of West Virginia that are used inside West Virginia should file an annual personal Use Tax return and pay the 6% West Virginia Use Tax on the goods and services used in West Virginia. Businesses should file a monthly or quarterly use tax return and pay the West Virginia Use Tax on goods and services purchased out of State but used in West Virginia.

Sales of products purchased from a West Virginia retailer through an Internet web site and mailed or delivered by common carrier to an out-of-state customer are treated the same as catalog or mail order sales of merchandise to be delivered to the consumer outside of West Virginia that are for Consumers Sales Tax purposes as an out of state sale not subject to West Virginia sales tax. A sale of goods is not deemed finalized until the customer takes delivery of the product in their home state.

If you need further information concerning this publication, please contact:

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Taxpayer Services Division  
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Charleston, West Virginia 25337-3784

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