



WEST VIRGINIA SALES TAX COLLECTION REQUIREMENTS

The purpose of this publication is to provide information regarding West Virginia sales tax responsibilities that may result from selling or leasing tangible personal property or providing taxable services in West Virginia. Any person who willfully fails to properly collect and remit sales tax may be subject to fines or imprisonment or both. This publication is not a substitute for tax law or regulations.

If you sell or lease tangible personal property or provide a taxable service in West Virginia, you are generally considered to be a vendor required to collect West Virginia Sales Tax on each sale, service or lease unless a statutory exception or exemption applies. All sales, leases and services are taxable unless expressly excepted or exempted by law. The burden of proof that a sale is exempt from the tax rests with you, the vendor. You must collect Tax on all taxable sales regardless of whether you make sales as an individual, a partnership, a corporation, a governmental agency or any other entity. Even non-profit organizations that are exempt from federal and state income taxes must collect West Virginia Sales Tax in many cases.

You must keep accurate records that show all the information you need to prepare your returns and to verify their accuracy in case you are audited. Your records must be geared to your particular operation and any recordkeeping equipment you use. Remember, the burden of proving that a sale is exempt from the tax rests with the vendor. If you fail to collect tax you may be held personally liable for payment of the tax.

As a general rule, you must state the Sales Tax separately 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. 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.

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 similar phrase.

- **Example of Sign Posting**

West Virginia Sales Tax Is Included In The Price Of The Products Sold Here

FAILURE TO COLLECT

Any person required by law to collect sales tax and who willfully fails to collect the tax as required by law, is guilty of a misdemeanor, and, on conviction may be fined \$100 to \$500, or imprisoned, or both fined and imprisoned. Each month or fraction of a month during which such failure continues is a separate offense and punishable accordingly.

FAILURE TO REMIT

Failure to remit more than \$1,000--Any person who willfully fails to remit the tax collected as required by law more than 30 days after the date the tax is due is guilty of a felony if the amount of tax not paid is \$1000 or more. If convicted, the violator may be fined \$5,000 to \$25,000, or imprisoned, or both fined and imprisoned. Each month or fraction of a month during which such failure continues is a separate offense and punishable accordingly.

Failure to remit less than \$1,000--Any person who willfully fails to remit the tax collected as required by law more than 30 days after the date the tax is due is guilty of a misdemeanor if the amount of tax not paid is less than \$1000. If convicted, the violator may be fined \$500 to \$5000, or imprisoned, or both fined and imprisoned. Each month or fraction of a month during which failure continues is a separate offense and punishable accordingly.

If you have questions concerning this publication, please contact:
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TDD Service for the hearing impaired: 1-800-2TAXTDD (1-800-282-9833)
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