



West Virginia ENERGY STAR® Sales Tax Holiday

Beginning Tuesday, September 1, 2009 through Monday, November 30, 2009, inclusive, there will be an exemption from the consumers sales tax on purchases of energy efficient products of \$5,000 or less per qualified product that carry the ENERGY STAR® label. This exemption applies to purchases for noncommercial home or personal use. It **does not** apply to purchases of items for use in a trade or business.

An ENERGY STAR® qualified product is one that meets the energy efficient guidelines set by the U. S. Environmental Protection Agency and the U. S. Department of Energy. The ENERGY STAR® label is now on over 50 product categories that include the following:

Clothes Washers
Dehumidifiers
DVD Products
Televisions
VCRs
Compact Fluorescent Lamps (CFL)
Light Fixtures
Decorative Light Strings
Computers
Dishwashers



Refrigerators and Freezers
Air Conditioning
Boilers
Fans
Furnaces
Heat Pumps
Programmable Thermostats
Battery Charging Systems
Cordless Phones and Monitors
Printers and Scanners

While protecting the environment, energy efficient choices can save families about one-third on their energy bill without sacrificing features, style or comfort by using products that have earned the ENERGY STAR®. A complete list of these products can be found at www.energystar.gov

There is no requirement that qualifying items be new, when purchased, to qualify for the ENERGY STAR® holiday exemption. If a used product does not have the original ENERGY STAR® label on it, contact the manufacturer by telephone or website to determine if the item was originally sold as an energy efficient product.

There is no limit on the number of qualifying items that can be purchased during these sales tax holidays. An exemption certificate or other documentation is not required to receive the exemption as the holiday relates to the nature of the product sold.

Internet and Catalog Sales

The tax-free holiday also applies to Internet and catalog sales of eligible products, provided that (1) the items are both paid for and delivered to the purchaser during the exemption period; or (2) the purchaser orders and pays for the item and the retailer accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period. The retailer accepts an order when the retailer has taken action to fill the order for immediate shipment. Actions to fill an order include placement of an "in date" stamp on a mail order and issuing a confirmation verifying the date the seller accepted the order. An order is considered "for immediate shipment" even if delivery or shipment may be delayed because of a backlog of orders or because an item is temporarily out of stock or on back order by the seller.

Layaway Plans

Layaway plans can be used to take advantage of the sales tax holiday. Layaway sales of eligible products qualify for the exemption when either the final payment on a layaway order is made and the merchandise is given to the customer during the exemption period, or the item is selected by the customer and the order is accepted into layaway by the retailer during the exemption period for immediate delivery upon full payment, even if delivery is made after the exemption period.

Shipping and Handling Charges

Shipping and handling charges **separately stated** on the bill or purchase invoice for a qualified **ENERGY STAR®** product, or on a separate bill or invoice, **are taxable**. However, separately stated shipping and handling charges on qualified Energy Star products are not added to the selling price in calculating the per item cost of the product for purposes of determining the \$5,000 maximum.

Example: The price of an Energy Star qualified refrigerator purchased during the holiday is \$4,975. The charge for delivery is \$50, and is separately stated on the bill or purchase invoice, resulting in a total of \$5,025. Tax at the rate of 6% must be collected on the \$50 delivery charge, resulting in a total purchase price of \$5,028. However, because the delivery price is separately stated, the \$50 delivery charge is not added to the purchase price of \$4,975 in calculating the per item cost of the Energy Star product. The per item cost of the refrigerator is \$4,975, and is within the Energy Star sales tax holiday maximum allowable per item cost of \$5,000. Only the delivery charge is taxable.

Shipping and handling charges on Energy Star products that are **not separately stated** are **not taxable** and will be added to the selling price of the Energy Star product in calculating the per item cost of the Energy Star product for purposes of determining the \$5,000 maximum.

Example: The price of an Energy Star qualified refrigerator purchased during the holiday is \$4,975. The charge for delivery is \$50 and is not separately stated on the bill or purchase invoice, resulting in a total of \$5,025. Because the delivery charge is not separately stated, the \$50 delivery charge is added to the purchase price of \$4,975 in calculating the per item cost of Energy Star product. The per item cost of the refrigerator is \$5,025. This is above the Energy Star sales tax holiday maximum allowable per item cost of \$5,000, so the entire purchase is taxable.

Installation Charges

Installation charges **separately stated** on the bill or purchase invoice for **ENERGY STAR®** products, or on a separate bill or invoice, **are taxable**. However, separately stated installation charges on Energy Star products are **not added to the selling price** in calculating the per item cost of the Energy Star product for purposes of determining the \$5,000 maximum.

Example: The price of an Energy Star qualified refrigerator purchased during the holiday is \$4,975 and requires plumbing for an ice maker. The charge for installing the ice maker is \$50 and is separately stated on the bill or purchase invoice resulting in a total of \$5,025. Tax at the rate of 6% must be collected on the \$50 installation charge, resulting in a total purchase price of \$5,028. However, because the installation charge is separately stated, the \$50 installation charge is not added to the purchase price of \$4,975 in calculating the per item cost of the Energy Star product. The per item cost of the refrigerator is \$4,975 and is within the Energy Star sales tax holiday maximum allowable per item cost of \$5,000. Only the installation charge is taxable.

Charges for installation of an Energy Star product that are **not separately stated** on the bill or purchase invoice, where the installation is provided or arranged by the vendor, are **not taxable**. However, the charges for installation of Energy Star products **will be added to the selling price** in calculating the per item cost of the Energy Star product for purposes of determining whether the \$5,000 maximum allowable per item cost has been exceeded.

Example: The price of an Energy Star qualified refrigerator purchased during the holiday is \$4,975, and requires plumbing for an ice maker. The charge for installing the ice maker is \$50, and is not separately stated on the bill or purchase invoice, resulting in a total of \$5,025. Because the installation charge is not separately stated, the \$50 installation charge is added to the purchase price of \$4,975 in calculating the per item cost of the Energy Star product. The per item cost of the refrigerator is \$5,025. This is above the Energy Star sales tax holiday maximum allowable per item cost of \$5,000, so the entire purchase is taxable.

Except where an installation of a qualified Energy Star product is the result of a construction contract treated as such for purposes of the West Virginia consumers sales and service tax, charges for installation of a qualified Energy Star product where installation is not provided or arranged by the vendor, are taxable and will not affect the calculation of the per item cost for purposes of determining whether the \$5,000 maximum allowable per item cost has been exceeded. Construction contracting is not subject to the West Virginia consumers sales and service tax. The purchase by a contractor of an Energy Star product that is to be used and installed for noncommercial home or personal use is exempt during the holiday period.

Buy one, get one free or for a reduced price

The total price of products 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 a product as “buy one, get one free”. The first item is priced at \$6,000; the second qualifying item of \$6,000 is free. Tax is due on \$6,000. The retailer cannot sell each pair at \$3,000 in order for the items to qualify for the exemption. However, the retailer may advertise and sell the items for 50% off, selling each \$6,000 item for \$3,000, making each item eligible for the exemption.

Example: A retailer advertises a \$6,000 qualifying product as “buy one at the regular price, get a second item for half price”. Tax is due on the first item, but not on the second item sold at \$3,000.

Exchanging a tax-exempt purchase after the Holiday ends

If a customer purchases an eligible product 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.

If a customer purchases an eligible product during the Holiday and after the Holiday period 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.

Coupons, rebates and discounts

Manufacturers' coupons do not reduce the sale price of an item. Therefore, a manufacturer's coupon cannot be used to reduce the selling price of a product to less than \$5,000 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 price of an item to less than \$5,000 in order to qualify for the exemption.

Gift certificates

The sale of a gift certificate is not taxable. Eligible products sold and delivered during the Holiday period using a gift certificate will qualify for the exemption regardless of when the gift certificate was purchased. Eligible products 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 \$5,000 in order for the product to qualify for the exemption.

Rain checks

Eligible products 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 product for the exemption if the item is actually sold and delivered after the Holiday.

Rentals and Repairs

Rentals of and repairs to eligible products do not qualify for the exemption.

Refunds

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

If a retailer has not already remitted the tax to the West Virginia State Tax Department, the retailer should refund the tax to the customer. If the retailer has previously remitted the tax to the State, the retailer may refund the tax to the customer and then take a credit for the tax refunded on their sales tax return.

If the retailer is unable to refund the erroneously paid tax, the customer may apply for a refund with the State Tax Department.

Service Warranties

Service warranties on energy efficient products purchased during the exemption period are exempt from the sales tax. Warranties are treated as a separate purchase from the warranted products.

Free Taxpayer Services

If you have question or need assistance call or visit any of our offices listed below. You may write to the West Virginia State Tax Department, Taxpayer Services Division, P.O. Box 3784, Charleston, WV 25337-3784.

Assistance may be obtained by calling
Taxpayer Services Division
(304) 558-3333 or 1-800-WVA-TAXS (1-800-982-8297)
A TDD Service is available for the hearing impaired by calling
1-800-2TAXTDD (1-800-282-9833)
To order forms or publications call the automated information system at:
(304) 344-2068 or 1-800-422-2075
Or visit our website: <http://www.wvtax.gov>

The following locations may also be contacted for assistance

BECKLEY, WV 25801
407 Neville Street, Suite 109
Phone – (304) 256-6764

HUNTINGTON, WV 25701
2699 Park Avenue, Suite 230
Phone – (304) 528-5568

CHARLESTON, WV 25301
1206 Quarrier Street
Phone – (304) 558-3333 or
1-800-WVA-TAXS (1-800-982-8297)

MARTINSBURG, WV 25404
397 Mid Atlantic Parkway, Suite 2
Phone – (304) 267-0022

CLARKSBURG, WV 26301
30 West Pike Street, Suite 201
Phone – (304) 627-2109

PARKERSBURG, WV 26101
400 Fifth Street
Phone – (304) 420-4570

WHEELING, WV 26003
40 Fourteenth Street
Phone – (304) 238-1152