



SALES AND USE TAX ON SAMPLES FOR MANUFACTURER/RETAILER

This publication provides general information. It is not a substitute for tax laws or regulations.

GENERAL INFORMATION

- The liability of manufacturers for sales tax on purchases for use in business is subject to the direct use concept. Under this concept, the applicability of the sales and use tax depends on the use of the property or service rather than the type of property or service purchased. The same purchase of the same item may be taxable in one instance and exempt in another, depending on its usage.
- The basic concept is that purchases directly used in activities or operations that are an integral and essential part of the activity are exempt from sales and use tax, while purchases that are used in activities or operations that are merely incidental, convenient, or remote to such activities are taxable for sales and use tax purposes.

EXEMPTIONS AVAILABLE FOR PURCHASES

- The only special exemption available to either wholesalers or retailers is the exemption for purchases made for resale. Wholesalers and retailers must generally pay tax on all other purchases for use in business.

TAXABILITY OF SAMPLES

- The fair market value of samples distributed in the advertising or marketing of products is subject to sales and use tax.
- Use of items in marketing of products is not considered to be direct use in manufacturing under the provisions of W. Va. Code §11-15-2(n) (3) (E) and 110 C.S.R. 15§123.4.2.1.o (1989).
- Wholesalers and retailers are not exempt on purchases for use in business, except for purchases for resale. Purchases of items for free distribution are not purchases for resale.
- Purchases of items for resale which are not resold but distributed as free samples are considered to be purchased for use in business and are subject to use tax. Therefore, tangible personal property or services used in advertising or in marketing of goods, including the withdrawal of salesman's samples from inventory for distribution to potential customers, are subject to tax.
- If you are in the business of selling products such as pharmaceuticals, cosmetics, tobacco, food, etc. and it is a practice to give samples of your products to your customers, then you must pay sales or use tax on the fair market value of the samples when withdrawn from inventory for distribution.

ASSISTANCE AND ADDITIONAL INFORMATION

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS
(1-800-982-8297)**

Or visit our website at:

www.tax.wv.gov

File and pay taxes online at:

<https://mytaxes.wvtax.gov>

Email questions to:

taxhelp@wv.gov