WEST VIRGINIA CODE: §11-15-3

§11-15-3. Amount of tax; allocation of tax and transfers.

(a) *Vendor to collect.* — Unless otherwise provided in this article or provided in §11-15A-1 *et seq.* of this code, for the privilege of selling tangible personal property or custom software and for the privilege of furnishing certain selected services defined in §11-15-2 and §11-15-8 of this code, the vendor shall collect from the purchaser the tax as provided under this article and §11-15B-1 *et seq.* of this code, and shall pay the amount of tax to the Tax Commissioner in accordance with the provisions of this article or §11-15B-1 *et seq.* of this code.

(b) *Amount of tax.* — The general consumers sales and service tax imposed by this article shall be at the rate of six cents on the dollar of sales or services, excluding gasoline and special fuel sales, which remain taxable at the rate of five cents on the dollar of sales.

(c) *Calculation tax on fractional parts of a dollar until January 1, 2004.* — There shall be no tax on sales where the monetary consideration is five cents or less. The amount of the tax shall be computed as follows:

(1) On each sale, where the monetary consideration is from six cents to 16 cents, both inclusive, one cent.

(2) On each sale, where the monetary consideration is from 17 cents to 33 cents, both inclusive, two cents.

(3) On each sale, where the monetary consideration is from 34 cents to 50 cents, both inclusive, three cents.

(4) On each sale, where the monetary consideration is from 51 cents to 67 cents, both inclusive, four cents.

(5) On each sale, where the monetary consideration is from 68 cents to 84 cents, both inclusive, five cents.

(6) On each sale, where the monetary consideration is from 85 cents to $1, both inclusive, six cents.

(7) If the sale price is in excess of $1, six cents on each whole dollar of sale price, and upon any fractional part of a dollar in excess of whole dollars as follows: One cent on the fractional part of the dollar if less than 17 cents; two cents on the fractional part of the dollar if in excess of 16 cents but less than 34 cents; three cents on the fractional part of the dollar if in excess of 33 cents but less than 51 cents; four cents on the fractional part of the dollar if in excess of 50 cents but less than 68 cents; five cents on the fractional part of the dollar if in excess of 67 cents but less than 85 cents; and six cents on the fractional part of

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the dollar if in excess of 84 cents. For example, the tax on sales from $1.01 to $1.16, both inclusive, seven cents; on sales from $1.17 to $1.33, both inclusive, eight cents; on sales from $1.34 to $1.50, both inclusive, nine cents; on sales from $1.51 to $1.67, both inclusive, 10 cents; on sales from $1.68 to $1.84, both inclusive, 11 cents; and on sales from $1.85 to $2, both inclusive, 12 cents: *Provided*, That beginning January 1, 2004, tax due under this article shall be calculated as provided in this subsection and subsection (d) of this section does not apply to sales made after December 31, 2003.

(d) *Calculation of tax on fractional parts of a dollar after December 31, 2003*. — Beginning January 1, 2004, the tax computation under subsection (b) of this section shall be carried to the third decimal place, and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(e) *No aggregation of separate sales transactions, exception for coin-operated devices*. — Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of computation of the tax even though the sales are aggregated in the billing or payment therefor. Notwithstanding any other provision of this article, coin-operated amusement and vending machine sales shall be aggregated for the purpose of computation of this tax.

(f) *Rate of tax on certain mobile homes*. — Notwithstanding any provision of this article to the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to six percent of 50 percent of the sales price.

(g) *Construction; custom software*. — After December 31, 2003, whenever the words "tangible personal property" or "property" appear in this article, the same shall also include the words "custom software".

(h) *Computation of tax on sales of gasoline and special fuel*. — The method of computation of tax provided in this section does not apply to sales of gasoline and special fuel.

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