WEST VIRGINIA CODE: §11-15-3a

§11-15-3a. Rate of tax on food and food ingredients intended for human consumption; reductions and cessations of tax.

(a) Rate of tax on food and food ingredients. -- Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary:

(1) Rate reduction. -- The rate of tax on sales, purchases and uses of food and food ingredients intended for human consumption after June 30, 2008, shall be three percent of its sales price, as defined in section two, article fifteen-b of this chapter.

(2) Additional rate reduction. -- The rate of tax on sales, purchases and uses of food and food ingredients as defined in that section that is intended for human consumption after December 31, 2011, shall be two percent of its sales price, as defined in that section. After June 30, 2012, the rate of tax on sales, purchases and uses of food and food ingredients as defined in that section that is intended for human consumption shall be one percent of its sales price, as defined in that section.

(3) Contingent termination of tax on food. -- The tax on sales, purchases and uses of food and food ingredients as defined in section two, article fifteen-b of this chapter that is intended for human consumption shall cease after June 30, 2013, and no such tax shall be imposed on sales, purchases and uses of food and food ingredients so defined: Provided, That the cessation of tax after June 30, 2013, authorized by this subsection shall be suspended if the balance of funds as of December 31, 2012, in the Revenue Shortfall Reserve Fund established in section twenty, article two, chapter eleven-b of this code does not equal or exceed twelve and one-half percent of the General Revenue Fund budgeted for the fiscal year commencing July 1, 2012. Such suspension shall terminate, and the cessation of tax shall proceed, beginning on July 1 of any calendar year beginning after December 31, 2013, in which the balance of funds as of December 31 of the preceding fiscal year in said Revenue Shortfall Reserve Fund equals or exceeds twelve and one-half percent of the General Revenue Fund budgeted for the immediately succeeding fiscal year.

(b) Calculation of tax on fractional parts of a dollar. -- The tax computation under 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 seller 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.

(c) Federal Food Stamp and Women, Infants and Children programs, other exemptions. -- Nothing in this section affects application of the exemption from tax provided in section nine of this article for food purchased by an eligible person using food stamps, electronic benefits transfer cards or vouchers issued by or pursuant to authorization of the United States

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Department of Agriculture to individuals participating in the Federal Food Stamp Program, by whatever name called, or the Women, Infants and Children (WIC) program, or application of any other exemption from tax set forth in this article or article fifteen-a of this chapter.

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