

WEST VIRGINIA CODE: §11-15-9P

§11-15-9p. Exemption for purchases of services and tangible personal property sold for the repair, remodeling and maintenance of aircraft operated under a fractional ownership program.

(a) The following sales are exempt from the consumers sales and service tax: Sales of aircraft repair, remodeling and maintenance services when the services are to an aircraft operated under a fractional ownership program, or to an engine or other component part of an aircraft operated under a fractional ownership program; sales of tangible personal property that is permanently affixed or permanently attached as a component part of an aircraft operated under a fractional ownership program, as part of the repair, remodeling or maintenance service; and sales of machinery, tools or equipment directly used or consumed exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines or aircraft component parts for an aircraft operated under a fractional ownership program, or used exclusively in combination with the purposes specified in this subsection and the purposes specified in §11-15-9(a)(33) of this code.

(b) Any person having a right or claim to any exemption set forth in this section shall: First pay to the vendor the tax imposed by this article and then apply to the Tax Commissioner for a refund or credit, or, as provided in §11-15-9d and §11-15a-3d of this code, give to the vendor his or her West Virginia direct pay permit number: Provided, That a person having a right or claim to the exemption set forth in this section may apply to the Tax Commissioner for permission to use an exemption certificate. Upon the granting of such permission, a person having a right or claim to the exemption set forth in this section may, in lieu of paying the tax imposed by this article and filing a claim for refund, execute a certificate of exemption, in the form required by the Tax Commissioner, and deliver it to the vendor of the property or service in the manner required by the Tax Commissioner.

(c) For purposes of this section, "fractional ownership program" means any system of aircraft ownership and exchange that consists of all of the following:

(1) The provision for fractional ownership program management services by a single fractional ownership program manager on behalf of the fractional owners;

(2) Two or more airworthy aircraft;

(3) One or more fractional owners per program aircraft, with at least one program aircraft having more than one owner;

(4) Possession of at least a minimum fractional ownership interest in one or more program aircraft by each fractional owner;

- (5) A dry-lease aircraft exchange arrangement among all of the fractional owners; and
- (6) Multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.
- (d) The tax commissioner shall promulgate emergency rules and shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to establish eligibility requirements for the exemption established by this section.
- (e) The provisions of this section shall apply to sales made on and after September 1, 2018.