WEST VIRGINIA CODE: §60-3-9D

§60-3-9d. Tax on purchases of intoxicating liquors inside and outside corporate limits of municipalities.

(a)(1) For the purpose of providing financial assistance to and for the use and benefit of the various counties and municipalities of this state, there is hereby levied a tax upon all purchases of intoxicating liquor from state stores or other agencies of the Alcohol Beverage Control Commissioner, of wine from any person licensed to sell wine at retail under the provisions of §60-8-1 et seq. of this code, and of wine from distributors licensed to sell or distribute wine under the provisions of §60-8-1 et seq. of this code. The tax shall be five percent of the purchase price and shall be added to and collected with the purchase price by the commissioner, by the person licensed to sell wine at retail, or by the distributor licensed to sell or distribute wine, as the case may be: Provided, That the tax may not be collected on the intoxicating liquors sold by or purchased from holders of a license issued under the provisions of §60-7-1 et seq. of this code: Provided, however, That the tax may not be collected on purchases of intoxicating liquors or wine in the original sealed package for the purpose of resale in the original sealed package if the final purchase of such intoxicating liquors or wine is subject to the tax imposed under this section, under §8-13-7 of this code, or under §60-3A-21 of this code. This section may not be interpreted to authorize a purchase for resale exemption in contravention of §11-15-9a of this code. For purposes of this article, the term “original sealed package” means an original sealed package as defined in §8-13-7 of this code.

(2) (A) All such tax collected within one mile of the corporate limits of any municipality within the state shall be remitted to such municipality; all other tax collected shall be remitted to the county in which it was collected: Provided, That where the corporate limits of more than one municipality is within one mile of the place of collection of such tax, all such tax collected shall be divided equally among each of said municipalities: Provided, however, That such mile is measured by the most direct hard surface road or access way usually and customarily used as ingress and egress to the place of tax collection.

(B) Effective January 1, 2019, all such tax collected on sales sourced within the corporate limits of any municipality within the state shall be remitted to that municipality. All such tax collected on sales sourced outside the corporate limits of any municipality shall be remitted to the county in which the sale is sourced.

(C) When determining whether the tax is collected within the corporate limits of any municipality, a seller shall use the sourcing rules provided in §11-15B-1 et seq. of this code.

(3) Rulemaking. — (A) The Tax Commissioner shall propose rules for promulgation in accordance with the requirements of §29A-3-1 et seq. of this code to provide for the collection of the tax required by this section. The Tax Commissioner may promulgate

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emergency rules in accordance with §29A-3-15 of this code, as necessary, to carry out the requirements of this section.

(B) The West Virginia Alcohol Beverage Control Commissioner may propose rules for promulgation in accordance with the requirements of §29A-3-1 et seq. of this code to provide for the collection of the tax required by this section. The West Virginia Alcohol Beverage Control Commissioner may promulgate emergency rules in accordance with §29A-3-15 of this code, as necessary, to carry out the requirements of this section.

(b) For purposes of this section, terms have the same meaning as provided in §8-13-7(b) of this code.

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