WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1981

ENROLLED
SENATE BILL NO. 2

(By Mr. [Name], Mr. [President])

PASSED May 12, 1981
In Effect Midnight, EDST, May 31, 1981
AN ACT to amend and reenact sections three and nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two and three, article fifteen-a of said chapter, all relating to increasing the consumers sales tax and use tax except for mobile homes.

Be it enacted by the Legislature of West Virginia:

That sections three and nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections two and three, article fifteen-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 15. CONSUMERS SALES TAX.


For the privilege of selling tangible personal property and of dispensing certain selected services defined in sections two and eight of this article, the vendor shall collect from the purchaser the tax as provided under this article, and shall pay the amount of tax to the tax commissioner in accordance with the provisions of this article.

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 twenty cents, both inclusive, one cent.
(2) On each sale, where the monetary consideration is from twenty-one cents to forty cents, both inclusive, two cents.

(3) On each sale, where the monetary consideration is from forty-one cents to sixty cents, both inclusive, three cents.

(4) On each sale, where the monetary consideration is from sixty-one cents to eighty cents, both inclusive, four cents.

(5) On each sale, where the monetary consideration is from eighty-one cents to one dollar, both inclusive, five cents.

(6) If the sale price is in excess of one dollar, five 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 twenty-one cents; two cents on the fractional part of the dollar if in excess of twenty cents but less than forty-one cents; three cents on the fractional part of the dollar if in excess of forty cents but less than sixty-one cents; four cents on the fractional part of the dollar if in excess of sixty cents but less than eighty-one cents; and five cents on the fractional part of the dollar if in excess of eighty cents. For example, the tax on sales from one dollar and one cent to one dollar and twenty cents, both inclusive, six cents; on sales from one dollar and twenty-one cents to one dollar and forty cents, both inclusive, seven cents; on sales from one dollar and forty-one cents to one dollar and sixty cents, both inclusive, eight cents; on sales from one dollar and sixty-one cents to one dollar and eighty cents, both inclusive, nine cents; on sales from one dollar and eighty-one cents to two dollars, both inclusive, ten cents.

Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of computation of the tax even though such sales are aggregated in the billing or payment thereof. Notwithstanding any other provision, coin-operated amusement and vending machine sales shall be aggregated for the purpose of computation of this tax.


The following sales and services shall be exempt:

(1) Sales of gasoline, taxable under article fourteen, chapter eleven of the code, one thousand nine hundred thirty-one;

(2) Sales of gas, steam and water delivered to consumers through mains or pipes, and sales of electricity;
(3) Sales of textbooks required to be used in any of the
schools of this state;
(4) Sales of property or services to the state, its institutions
or subdivisions, and to the United States, including agencies
of federal, state or local governments for distribution in
public welfare or relief work;
(5) Sales of motor vehicles which are titled by the
department of motor vehicles which are subject to the tax
imposed by section four, article three, chapter seventeen-a of
the code;
(6) Sales of property or services to churches and bona fide
charitable organizations who make no charge whatever for
the services they render or sales of property or services to
organizations qualified under section 501(c)(3) of the Internal Revenue Code of 1954, as amended, or
section 501(c)(4) of the Internal Revenue Code of 1954,
as amended, who make casual and occasional sales not
conducted in a repeated manner or in the ordinary course of
repetitive and successive transactions of like character, or
sales of property or services to persons engaged in this state
in the business of contracting, manufacturing, transportation,
transmission, communication, or in the production of natural
resources: Provided, however, That the exemption herein
granted shall apply only to services, machinery, supplies and
materials directly used or consumed in the businesses or
organizations named above;
(7) An isolated transaction in which any tangible personal
property is sold, transferred, offered for sale, or delivered by
the owner thereof or by his representative for the owner's
account, such sale, transfer, offer for sale or delivery not
being made in the ordinary course of repeated and successive
transactions of like character by such owner or on his account
by such representatives;
(8) Sales of tangible personal property and services
rendered for use or consumption in connection with the
conduct of the business of selling tangible personal property
to consumers or dispensing a service subject to tax under this
article or which would be subject to tax under this article but
for the exemption for food provided in section eleven of this
article and sales of tangible personal property and services
rendered for use or consumption in connection with the
commercial production of an agricultural product the
ultimate sale of which will be subject to the tax imposed by
this article or which would have been subject to tax under
this article but for the exemption for food provided in section
eleven of this article: Provided, That sales of tangible
personal property and services to be used or consumed in the
construction of or permanent improvement of real property
shall not be exempt;
(9) Sales of tangible personal property for the purpose of
resale in the form of tangible personal property;
(10) Sales of property or services to nationally chartered
fraternal or social organizations for the sole purpose of free
distribution in public welfare or relief work;
(11) Sales and services, fire fighting, or station house
equipment, including construction and automotive, made to
any volunteer fire department organized and incorporated
under the laws of the state of West Virginia;
(12) Sales of newspapers when delivered to consumers by
route carriers;
(13) Sales of drugs dispensed upon prescription and sales
of insulin to consumers for medical purposes;
(14) Sales of radio and television broadcasting time,
newspaper and outdoor advertising space for the
advertisement of goods or services;
(15) Sales and services performed by day care centers;
(16) Casual and occasional sales of property or services not
conducted in a repeated manner or in the ordinary course of
repetitive and successive transactions of like character by
corporations or organizations qualified under section
501(c)(3) of the Internal Revenue Code of 1954, as amended, or
under section 501(c)(4) of the Internal Revenue Code of 1954,
as amended;
(17) Bank safety deposit boxes;
(18) Sales of property or services to a school which has
approval from the West Virginia board of regents to award
degrees, which has its principal campus in this state, and
which is exempt from federal and state income taxes under
section 501(c)(3) of the Internal Revenue Code of 1954, as
amended; and
(19) Sales of mobile homes to be utilized by purchasers as
their principal year-round residence and dwelling: Provided,
That these mobile homes shall be subject to tax at the three
percent rate.
ARTICLE 15A. USE TAX.


An excise tax is hereby imposed on the use in this state of tangible personal property furnished or delivered within this state to consumers or users within this state on or after the effective date of this article, at the rate of five percent of the purchase price of such property. Said tax is hereby imposed upon every person using such property within this state until such tax has been paid directly to a retailer, or to the state tax commissioner as hereinafter provided.

Purchases of tangible personal property made from the government of the United States or any of its agencies by ultimate consumers shall be subject to the tax imposed by this section. Industrial materials and equipment owned by the federal government within the state of West Virginia of a character not ordinarily readily obtainable within the state, shall not be subject to use tax when sold, if such industrial materials and equipment would not be subject to use tax if such were sold outside of the state for use in West Virginia.

This article shall not apply to purchases made by counties or municipal corporations.


The use in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this article:

1. All articles of tangible personal property brought into the state of West Virginia by a nonresident individual thereof for his or her use or enjoyment while within the state.

2. Tangible personal property, the gross receipts from the sale of which are exempted from the retail sales tax by the terms of article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one.

3. Tangible personal property, the gross receipts from the sale of which are derived from the sale of machinery, supplies and materials to contractors, or to persons engaged in the business of manufacturing, transportation, transmission, communication or in the production of natural resources in this state: Provided, That the exemptions granted in this subdivision three are hereby suspended, nullified and made inoperative during the period from the first day of April, one thousand nine hundred sixty-nine to midnight of the thirty-first day of March, one thousand nine hundred seventy:
Provided further, That after midnight of the thirty-first day of March, one thousand nine hundred seventy, the exemptions granted in this subdivision three shall again be in full force and effect as if they had not been suspended, nullified and made inoperative as heretofore provided.

4. Tangible personal property, the gross receipts or the gross proceeds from the sale of which are required to be included in the measure of the tax imposed by article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one.

5. Tangible personal property the sale of which in this state is not subject to the West Virginia consumers sales tax.

6. Sales of mobile homes to be utilized by purchasers as their principal year-round residence and dwelling: Provided, That these mobile homes shall be subject to tax at the three percent rate.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect Midnight, EDT, May 31, 1981.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within _________ approved this the _________ day of _________, 1981.

Governor