

## **Business tax tip #14**

### **Flea Market Sales are Subject to Tax**

One reason flea markets can be profitable and fun for both vendors and customers is their informality. However, one formality you can't avoid is the sales and use tax. The good news is that it's a lot easier to comply with the Maryland sales and use tax law than you think.

#### **What sales at flea markets are taxable?**

Sales made at flea markets are taxable just like sales made elsewhere.

#### **What if I am just selling my own household property?**

There is an exemption for casual and isolated sales of less than \$1,000 which would cover sales of a seller's own household goods. This exemption does not apply to any sales by a full or part-time dealer. Nor does it apply if any of the property being offered for sale, whether new or used, was purchased or made solely for resale.

#### **How do I collect the sales and use tax?**

The first step is to obtain a license. You can get either a 30-day permit or a permanent license.

#### **How do I get a license?**

You can get the 30-day permit by calling the Special Events Section at 410-767-1540.

For a permanent license, file a Combined Registration Application with the State Comptroller's Office. You can complete it **online**. You can also call Taxpayer Service at 410-260-7980 from the Baltimore area or toll-free 1-800-638-2937 from elsewhere in Maryland to receive an application.

#### **Which kind of license is best for me?**

If you sell at only one or two flea markets a year, a 30-day permit should be sufficient. If you sell frequently, you can benefit more from a permanent license.

### **Why is it advantageous to obtain a permanent license?**

Permanent licensees don't have to pay the tax on items they buy to resell if they present a resale certificate. However, there are limitations. For details, request **Business Tax Tip #4 - If You Make Purchases for Resale**, from Taxpayer Service.

Permanent licensees may also deduct a collection fee on the reporting form. The fee is deducted from the taxes collected.

### **When should I register?**

You should register as soon as possible. If you don't register now and are later found to be making taxable sales without collecting the tax, you will be liable for back taxes.

### **Do I have to display my license at a flea market?**

Yes. Maryland law requires that vendors display their licenses at any location where sales are made. This will save you valuable selling time because representatives of the Comptroller's Office will not have to ask for your registration number.

### **Is collecting and remitting the tax complicated?**

No. Maryland has a single 6 percent tax rate applicable to virtually all sales. There are no local sales taxes. The forms are simple and only take a few minutes to complete.

### **Why do I have to collect the tax on used goods? It was probably taxed when new.**

The tax is on the transaction or sale and not on the property sold. The same item will generate tax each time it is sold.

### **How do I handle customers who object to paying tax?**

There will be customers who think that sales at flea markets are exempt or who otherwise misunderstand the law. To help, we

have produced a **sign** you can display. Copies are available from Taxpayer Service.

### **Do nonprofit organizations have to collect tax?**

Yes. Nonprofit organizations must collect tax even on donated goods. Private individuals must also collect tax even if they plan to donate the proceeds to a nonprofit organization. Sales by religious organizations and sales of food by volunteer fire companies and veterans' organizations are exempt.

### **Are sales to other dealers exempt?**

Always collect tax on sales to other dealers unless they present you with a resale certificate bearing their Maryland sales tax registration number. Resale certificates are not valid for cash, check or credit card purchases of less than \$200, unless you deliver the goods directly to the customer's retail place of business. If you are unfamiliar with resale certificates, request **Business Tax Tip #4 - If You Make Purchases for Resale**, from Taxpayer Service.

### **How is food taxed?**

If there is a charge for admission to a flea market, all sales of food are taxable. If there is no charge for admission, all sales of food are taxable except sales of food intended for consumption off the premises made by a person operating a substantial grocery or market business. Candy, soft drinks, and alcoholic beverages are not treated as "food" for sales tax purposes and are taxable even when sales of food are not taxable. The tax does not, however, apply to sales of agricultural products such as produce and vegetable plants by a farmer. For more information, request **Business Tax Tip #5 - How are Sales of Food Taxed in Maryland?**

### **Can I make sales and pay that sales and use tax on behalf of the buyer?**

Yes. Effective January 3, 2008, a vendor may assume and absorb all or any part of the sales and use tax on a retail sale and pay

that tax on behalf of the buyer. The vendor must, however, continue to separately state the tax from the sales price at the time of sale to the purchaser. If the vendor absorbs all or any part of the tax on the sale, the vendor must pay the tax with the return that covers the period in which the vendor makes the sale.