

Business tax tip #3

Sales and Use Tax on Out-of-State Purchases

Are purchases I make in other states subject to tax in Maryland?

Maryland's 6 percent sales and use tax applies to all tangible property that you possess and use in Maryland, no matter where you purchased it. Items purchased out-of-state through mail order, a toll-free "800" number, or the Internet, and delivered to a location within this State, are taxable in Maryland at the full 6% rate. For tangible personal property acquired before entering Maryland and taxed in the jurisdiction where purchased, credit is given for the tax paid to the other state. If that state's tax rate is less than 6% you will only owe the difference between that state's tax rate and the 6% Maryland rate.

Is this tax on out-of-state purchases something new?

No. It's been in effect since 1947, when Maryland's sales tax was first imposed. All 45 states which impose a tax on sales also have a companion use tax on out-of-state purchases of goods for use in Maryland. However, taxpayers tend to be less familiar with the use tax on out-of-state purchases than with the sales tax on local sales.

What kinds of out-of-state purchases are subject to Maryland tax?

Sales and use tax applies to purchases of goods outside of Maryland, including by mail, telephone or over the Internet, if the purchase would have been subject to sales and use tax if made in Maryland.

Some of the most common taxable out-of-state purchases made by businesses are:

- Computers
- Word processors
- Books
- Canned computer software
- Office supplies
- Construction materials
- Office furniture
- Store fixtures
- Cleaning supplies
- Copiers

How can I know if a certain purchase is taxable?

There's a simple test: If you would pay tax on the purchase if you made it in Maryland, you should pay tax on the same item if you purchased it outside of Maryland tax-free or at a lower tax rate than the applicable Maryland sales and use tax rate.

Don't vendors automatically add tax to these purchases?

No. Out-of-state vendors who don't have a place of business or employees in Maryland cannot be required to collect Maryland tax. If the vendor doesn't collect Maryland sales and use tax, you are required to pay it directly to the Comptroller's Office.

Out-of-state vendors who do have places of business, employees or sufficient other contacts with Maryland are required to collect the tax on purchases by Maryland residents, including purchases which are made by telephone, over the Internet or by mail from mail order catalogs.

How do I report out-of-state purchases?

If you have a sales tax license, you should report out-of-state purchases on line 7 of your sales and use tax report.

If you are not licensed, you should call Taxpayer Service at 410- 260-7980 in the Baltimore area, or 1-800-638-2937 from elsewhere in Maryland, and you will be sent the appropriate reporting form. If you make out-of-state purchases regularly, you may request to be put on the mailing list to receive reporting forms routinely.

How often do I have to report out-of-state purchases?

If your average tax liability for out-of-state purchases is more than \$100 per month, you are required to report and remit the tax every month. If your tax liability is less than \$100 per month, you may file on a quarterly basis.

What if I pay sales tax to another state?

Maryland grants a credit for sales tax appropriately paid to another state up to the amount of Maryland's 6 percent sales and use tax liability. The sales and use tax is imposed based on where you take possession of the tangible personal property or taxable service, so if the purchase is delivered directly to you in Maryland, the full Maryland sales and use tax applies. However, if you take possession of the item in another state, the purchase may be subject to that state's sales and use tax.

For example, if you traveled to another state and paid a 4 percent sales tax to that state on your purchase, and then transported that item for use in Maryland, you would be liable only for the difference, or 2 percent, of the Maryland sales and use tax when you brought the property into Maryland. However, if you arranged to have that purchase delivered by the vendor directly to your Maryland location, most likely you would owe no tax to the state where the vendor is located but would instead owe the full 6% Maryland tax.

Do I have to pay tax on used property that I bring into Maryland?

Yes, if you did not pay sales and use tax at the time of purchase, or if the tax you paid was less than the Maryland rate. However, you may reduce the sales price by a 10 percent depreciation allowance for each full year you used the property before you brought it to Maryland. Only the depreciated value is subject to tax.

Does the tax apply to self-manufactured goods that I bring into Maryland?

The tax applies only to the cost of materials and purchased fabrication services, not to the full market value of the goods. The value of your labor is not taxed.

What about lease payments on personal property?

The tax rate due on applicable lease payments for tangible personal property is based on the lease payment period, regardless of the length of the lease or the date that the lease agreement was signed. Each lease payment period is considered to be a separate lease for sales and use tax purposes..

Why are out-of-state purchases taxed?

Taxes are imposed on out-of-state purchases to protect Maryland businesses from unfair out-of-state competition as well as to raise revenue. The objective is to minimize the occasions on which customers elect to buy from an out-of-state seller solely to avoid the sales and use tax.

How is the tax on out-of-state purchases enforced?

The Comptroller's Office regularly audits sales and use tax licensees as well as service, construction and professional businesses to recover taxes on out-of-state purchases. The Comptroller's Office also collects the tax directly from individuals on more expensive items.

A nexus unit is responsible for discovering unlicensed sellers doing business in the state. If you are concerned about an out- of-state vendor who is actively engaged in business in Maryland and does not collect the sales and use tax where applicable, you may contact the nexus unit at 410-767-1582, Monday - Friday, 8:30 a.m. - 4:30 p.m. EST.