



COMPTROLLER
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MARYLAND SALES AND USE TAX FACTS

A newsletter for sales and use tax licensees

July 2016 – June 2017

Comptroller Peter Franchot

NO SALES AND USE TAX BULLETIN

There will be no separate Sales and use Tax Bulletin for 2016. This publication will address the bills affecting sales and use tax that were enacted during the 2015 and 2016 legislative sessions.

LEGISLATION

2015 Session - On January 21, 2016 the Maryland General Assembly overrode Governor Lawrence J. Hogan Jr.'s veto of Senate Bill 190 (2015 Regular Session). The legislation, now known as Chapter 3 of the Acts of 2016, with an effective date of February 20, 2016, clarified certain defined terms used in the sales and use tax law and reaffirmed the State's authority (which is reflected in sales and use tax laws existing prior to the Act) to impose the sales and use tax on all consideration paid by transient guests in furtherance of the rental of sleeping accommodations.

2016 Session – House Bill 1533 (Chapter 604, Acts of 2016) and Senate Bill 1062 (Chapter 603, Acts of 2016) – Baltimore County – Sales and Use Tax Exemption – Redevelopment Areas. The Acts exempt from the State sales and use tax a sale of construction material or warehousing equipment, if the material or equipment is purchased by a person for use on a privately owned industrial complex in Baltimore County that was owned by Bethlehem Steel Corporation, or any of its subsidiaries, and was the subject of an approved application for participation in the Voluntary Cleanup Program. The buyer of the materials or equipment must provide the vendor with evidence of eligibility for the exemption issued by the Comptroller.

TAXABLE PRICE ACCOMMODATIONS

The taxable price for the sale or use of an accommodation facilitated by an accommodations intermediary includes the full amount of the consideration paid by a buyer for the sale or use of an accommodation.

If you purchase accommodations through an accommodations intermediary

If you purchase an accommodation through an accommodations intermediary, such as an online travel company, the entire charge for the accommodation (the hotel charge plus any mark-up and fees charged by the accommodations intermediary) is subject to the sales and use tax. However, commissions paid by an accommodations provider to a person, such as a travel agent, after facilitating the sale or use of an accommodation and local hotel taxes are not included in the taxable price subject to the sales and use tax. The accommodations intermediary must separately state the Maryland sales and use tax on your record of sale. Any amount charged or retained by a vendor as a result of the cancellation of a room or lodging is subject to tax.

If you are an accommodations provider

Some examples of accommodations providers are hotel and motel owners and operators, owners of bed & breakfasts (B&Bs), and individuals who rent out their homes or rooms within their homes. Accommodations providers make sales subject to the sales and use tax, and therefore they must be registered with the Comptroller of Maryland to collect sales and use tax. Additional information on registration is provided below.

When an accommodations provider sells the right to occupy a room or lodgings as a transient guest (an accommodation), that person has a duty to collect the sales and use tax due on the sale and remit it to the State. The Maryland sales and use tax must be separately stated on the record of sale.

The duty to collect and remit the sales and use tax is waived if the buyer (such as an accommodations intermediary) provides the accommodations provider with a resale certificate and the accommodations provider does not know or have reason to know that the sale is for resale. If an accommodations intermediary does not provide a resale certificate prior to the sale, then the accommodations provider must charge the tax. An accommodations provider can verify the account number provided on a resale certificate via the Comptroller's online verification system.

If you are an accommodations intermediary

Some examples of accommodations intermediaries are online travel companies and hosting platforms that facilitate reservations and collect payments for booking transactions on behalf of an owner. Accommodations intermediaries make sales subject to the sales and use tax, and therefore they must be registered with the Comptroller of

Maryland to collect sales and use tax. Additional information on registration is provided below.

When an accommodations intermediary sells the right to occupy a room or lodgings as a transient guest (an accommodation), that person has a duty to collect the sales and use tax due on the sale and remit it to the State. The entire charge for the accommodation (the hotel charge plus any mark-up and fees charged by the accommodations intermediary) is subject to the sales and use tax. However, commissions paid by an accommodations provider to a person, such as a travel agent, after facilitating the sale or use of an accommodation and local hotel taxes are not included in the taxable price subject to the sales and use tax. The accommodations intermediary must separately state the Maryland sales and use tax on each record of sale.

An accommodations intermediary may provide an accommodations provider with a resale certificate prior to the sale. Doing so waives the duty of the accommodations provider to collect sales and use tax on the sale to the accommodations intermediary. If an accommodations intermediary does not provide a resale certificate prior to the sale, then the accommodations provider must charge the tax.

For more information, please see Tax Alert 05-16, available at www.marylandtaxes.com

INTEREST RATE CHANGE

The rate of interest has been changed for 2017 and future years as a result of House Bill 422 (Chapter 322, Acts of 2016). For additional information, please see our Web site at www.marylandtaxes.com or email your question to TAXHELP@comp.state.md.us. You may also call 1-800-638-2937 or from central Maryland 410-260-7980.

ONLINE PAYMENT OPTION

The Comptroller's Office has a free service to file sales and use tax returns, bFile, and another free service by which to pay outstanding sales and use tax liabilities electronically, BillPay. This system may be used to make bill payments on business tax liabilities using electronic funds withdrawal (direct debit) from a U.S. Bank or financial institution. Foreign facilities will not be accepted.

To be eligible to make an online payment via electronic funds withdrawal, for identification purposes, the State of Maryland must have a recent notice number on file for the registered user.

TAX-FREE PERIODS

The 2007 Special Session of the Maryland General Assembly enacted legislation providing for two tax-free periods beginning each year. Listed below is information pertaining to each tax-free period.

Shop Maryland- Tax-Free Week on Clothing and Footwear, Excluding Accessory Items

Beginning in calendar year 2010 and each year thereafter, there will be a one week tax-free period for back-to-school shopping in Maryland during August in which the sales and use tax does not apply to the sale of any items of clothing or footwear, excluding accessory items, if the taxable price of the item of clothing or footwear is \$100 or less. The 2016 tax free period will occur the week of August 14-20. Accessory items that are not exempt from the sales and use tax during the tax-free week include jewelry, watches, watchbands, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, and belt buckles.

Shop Maryland Energy- Tax-Free Weekend on Energy Star Products

Beginning in calendar year 2011 and each year thereafter, there will be a tax-free three-day weekend during February in which the sales and use tax will not apply to the sale of any Energy Star Product listed below. The 2017 tax free weekend will occur the weekend of February 18-20. Energy Star Product means an air conditioner, clothes washer or dryer, furnace, heat pump, standard size refrigerator, compact fluorescent light bulb, light-emitting diode (LED) light bulbs, dehumidifier, programmable thermostat or boiler that has been designated as meeting or exceeding the applicable Energy Star efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy. Please note that under Energy Star requirements, no dryer has an Energy Star rating and therefore dryers do not currently qualify for this tax-free period.