

VERMONT DEPARTMENT OF TAXES

GUIDE TO VERMONT BUSINESS TAXES

- ✓ Sales and Use
- ✓ Fuel Gross Receipts
- ✓ Income Tax Withholding
- ✓ C Corporation
- ✓ Meals and Rooms
- ✓ Local Option Taxes
- ✓ Telecommunications
- ✓ Business Entity



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This Guide provides general information in effect at the time of its publication. The Department recommends checking its website regularly for updated information, newly issued technical bulletins or regulations which may supersede the information contained herein.

Readers of this Guide should consult with competent counsel for specific tax planning advice. Neither this Guide nor the Department of Taxes can give you specific tax planning advice.

This Guide refers to United States and Vermont statutes, but is not a substitute for those statutes. The full text of the statutes may be found at a library or online.

If your situation is not described in this Guide, you may contact the Department with questions concerning your particular situation.

Web: www.state.vt.us/tax
email: bustax@state.vt.us
Tel: (802) 828-2551
Fax: (802) 828-5787

GENERAL VERMONT BUSINESS TAXES INFORMATION

If you are opening a business in Vermont, you will likely need a Vermont Business Tax Account. You should complete an application for the account as soon as you know the date you will commence business in the State and must receive your Vermont Business Tax Account Number and any applicable licenses **BEFORE** opening your business. If you are unsure whether your business needs to register with the Department, contact us at (802) 828-2551.

Getting the Application for a Vermont Business Tax Account

The application, Form S-1, is available at www.state.vt.us/tax or by calling (802) 828-2515. Upon processing of the application, you will be assigned your Vermont business tax account number and provided any applicable license(s). If you need assistance completing the application, you may e-mail the questions to bustax@state.vt.us or call (802) 828-2551.

Vermont Business Tax Account

Once you are registered with the Department, you will receive a tax account number and will hold an active account with the Department. Your tax account will consist of your identifying information and your tax account number, and will indicate the type of tax or taxes for which you are registered, the date of registration, how often you are required to file, and the history of your filings.

Having a Vermont Business Tax Account does not necessarily allow your business to make purchases tax-free. The number simply means you are registered with the Vermont Department of Taxes. You must qualify for any tax exemption, and you will receive exemption certificates if you are eligible.

Exempt Organizations

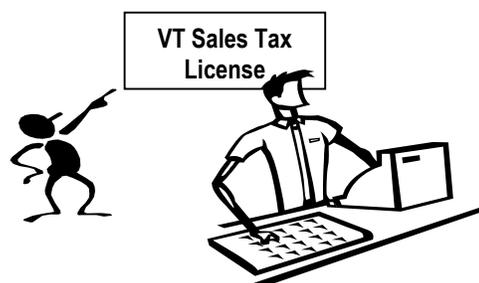
Even if you are an exempt organization, you must register for a Vermont Business Tax Account and obtain any applicable licenses to qualify for exemption from some Vermont taxes. For sales and use tax purposes, the term "exempt organization" generally refers to organizations that qualify under section 501(c)(3) of IRS regulations. Other 501(c) organizations are eligible for certain limited exemptions.

The Internal Revenue Service determination granting your exempt status must accompany your application. If you have not received a determination from the IRS, attach a copy of your business's articles of association and by-laws and the Department will issue you a temporary Business Tax Account and requested licenses. When your federal determination is received, send a copy to the Department for our review and records.

License

Sales and use tax and meals and rooms tax require licenses. The license shows you are authorized to collect taxes on behalf of the State of Vermont. Other taxes such as employer income tax withholding or corporate tax require a Business Tax Account Number, but you will not receive a license.

The license must be displayed at your place of business where it can be easily seen by customers.



Operating More than One Location

For sales and use or meals and rooms tax, you must complete separate S-1 applications, file separate returns, and obtain separate licenses for each location from which you operate. For employer withholding tax, you may report and remit withholding for all locations either on one account or obtain a Business Tax Account number for each location.

For fuel gross receipts, corporate and business entity taxes, only the headquarters location needs to have a Business Tax Account number.

It's Free! There is no charge for either the Vermont Business Tax Account or the license.

License Revocation or Suspension

If you fail to collect or remit applicable taxes, do not file returns on time, or violate the tax law, your license to operate your business can be revoked or suspended. You must immediately stop conducting any business in Vermont covered by the license. Continuing to operate after the revocation or suspension of the license subjects you to both civil and criminal penalties. The Department may also post a notice at your business advising the public your business has been closed for failure to comply with Vermont tax laws.

The Department may place a notice at your business letting the public know that your business has been closed for failure to post a bond or that your license has been revoked or suspended.

Posting a Bond

A bond is not usually required for a Business Tax Account or license. However, if the business or anyone associated with the business has established a poor filing or payment history with the Department, a bond may be required to protect the State's revenues. If a bond is required, the business may NOT operate until the bond is satisfactorily posted with the Vermont Department of Taxes. In the case of taxes that require licenses, a bond may also be required in lieu of license revocation.

Reporting and Paying the Taxes

You may file your taxes online or on returns provided to you by the Department preprinted with your name, address, business tax account number, the reporting period, and the due date. The preprinted returns are distributed annually. Because a booklet of returns takes approximately 45 days for the Department to issue, you will receive one or two returns to use while awaiting receipt of a return booklet if your application is submitted close to your opening date. Sales and use or meals and rooms tax are calculated on an accrual basis and you will receive returns for reporting from July to the following June. Employer withholding return booklets have returns to report from January to December plus an annual reconciliation return to transmit W-2 or 1099 payment statements.

VTBizFile offers a fast, easy online way to file and pay your sales & use, meals & rooms and withholding taxes. There is no charge for filing. Payment options include ACH debit (free) and credit card (Convenience fee on credit card payments over \$200).

If you use online filing for sales and use or meals and rooms tax reporting, you will not receive preprinted returns unless specifically requested. Your filing status or filing requirements remain the same even though a return booklet is not produced.

Substitute Returns

No substitute forms are authorized for sales and use tax, employer withholding, or meals and rooms tax returns.

The Department provides all registered businesses with standardized returns to assure they can be processed quickly and efficiently. These returns are programmed for scanning with our equipment and preprinted with required information. If you provide your tax information on anything other than Department forms, Department staff must either transfer your information to a Department form, in which case a \$25 processing fee is charged, or return the substitute form to you for correction, in which case processing is delayed, resulting in possible late fees and charges.

By using VTBizFile you never have to worry if the form can be processed or about losing the return.

Filing Frequency

A tax return must be filed as scheduled even if no tax is due for that reporting period.

The Department determines your filing frequency (how often you report and pay the tax) based on the amount of your tax obligation. The Department reviews its records annually and may change your filing frequency. You will receive at least 30 days notification of the change. You can request, in writing, a different filing frequency, but any change will not take effect until the beginning of a quarter (January, April, July, or October). Do not change your filing frequency until you receive written notification from the Department.

Annual Corporate and Business Entity Returns

C-corporations and business entities (S-corporations, LLCs and partnerships) file business tax returns annually. C-corporations may need to file quarterly and make estimated quarterly corporate income tax payments. Business entities must file estimated personal income tax on behalf of non-Vermont resident partners, shareholders, or members.

Extra Time to File

You will not be charged a late filing penalty if you file a return within sixty (60) days of its original due date. If you owe tax, however, you will be charged interest and late payment penalty calculated from the return's original due date.

For corporate and business entities, use VT Form BA-403 to request an automatic extension of time to file. The Vermont extension runs to October 15th, an additional thirty days from the federal extension.

Remember – An extension of time allows additional time to file without a late *filing* penalty. If you owe tax, you will be charged interest and late payment penalty calculated from the original return due date.

Filing Late

A \$50 late filing penalty is assessed if the return is filed more than sixty (60) days after the original statutory due date, even if no tax is due.

If you have an extension, the late filing penalty is assessed if the return is filed after the extended due date.

Additionally, interest and late payment penalty on any tax due will be calculated from the original return due date, not from the extended date.

Not Filing a Return

If you fail to file a required tax return, the Department estimates your tax and bills you for the tax, late filing fee, and any penalties and interest. The estimated tax bill begins the collection process that may include a requirement to post a bond, liens placed on property, or the revocation or suspension of your license. Even if an estimated bill is paid, you are still responsible for filing the missing return.

Changing Your Vermont Business Tax Account Information

If your business information changes, there are several ways to change or correct your Vermont Business Account information:

- Mail or fax Form B-2, Notice of Change (found in your return booklet) to the Department. The B-2 allows you to change or correct the business name, address, or an identification number. The Department's fax number is (802) 828-5787.
- Mail or fax a letter of explanation to the Department.
- Make any necessary changes to the information on your C-corporation or business entity return.

**If you change your name or address,
you must return your license and a corrected license will be issued to you.**

Canceling Your Vermont Business Tax Account

- Mail or fax Form B-2, Notice of Change (in your return booklet) to the Department. The Department's fax number is (802) 828-5787. Remember to provide the last day that you conducted business and if you sold the business, the purchaser's name, address and date of purchase.
- Write a letter of cancellation to the Department showing the business name and account number to be cancelled and the last day you conducted business. If you sold the business, also include the purchaser's name, address and date of purchase. Mail or fax the letter to the Department.
- For corporate and business entity taxpayers, cancellation is by notation of "Final Return" on the last annual return or by written notice to the Department.

You must return your license to the Department.

Once the Department receives your license (if applicable) and your cancellation request is processed, the Department will issue a cancellation confirmation letter for your records. If your mailing address has changed, please include the new address in your cancellation request.

Transferring Vermont Business Tax Account, Number or License

Your Vermont business tax account, account number or license **cannot** be assigned or transferred to anyone else. If you sell the business, you must cancel the account and return your license. If you buy an existing business, you must submit your own application.

Buying an Existing Business

If you plan on buying an existing business, you must send written notice of the proposed purchase to the Commissioner of Taxes at least ten (10) days prior to the date of sale. The notice must include your name (as buyer), the name of the seller, the date of sale and price, terms and conditions of the sale. If a possible tax claim exists, you will be notified and required to establish an escrow account in the amount of the State's claim. If you fail to notify the Commissioner of an impending sale, or if you fail to escrow the amount of the State's claim, you can be held personally liable for any taxes owed by the seller. You will also need to submit your application for a Vermont Business Tax Account Number and any applicable licenses before you commence business. See 32 V.S.A. § 3260.

SALES AND USE TAX - *NEW (effective January 1, 2007)*

Vermont is a full participating member of the Streamlined Sales Tax Project (SSTP). The changes to sales tax laws needed to comply with SSTP (effective January 1, 2007) are highlighted. Remember, registration with the SSTP is **voluntary**, and if you do not have an obligation to collect another state's sales tax on out-of-state sales, Vermont's membership in SSTP does not create a liability for you. See the Department's website for more information.



Do I Need to Apply for a Vermont Business Tax Account? Any vendor selling items subject to the Vermont sales or use tax needs a Vermont Business Tax Account. This includes transient vendors coming into Vermont for short periods of time or vendors with no permanent Vermont address. You also need an account to receive exemption from the tax.

NOTICE TO PROMOTERS OF EVENTS WITH TRANSIENT VENDORS

Promoters of events such as flea markets, shows or exhibitions with 25 or more vendors selling taxable items must provide the VT Department of Taxes with a list of participating vendors at least one day prior to the event for verification the vendors are registered to collect sales and use tax. The list must include the vendors' names and their VT sales and use tax license numbers. The promoter must notify the VT Department of Taxes within 10 days after the event if there are changes to the original list of participating vendors.

Applying for a Vermont Business Tax Account

You need the Vermont Business Tax Account and license **BEFORE** you open for business. As soon as you know the date you will open your business, complete Form S-1, Vermont Application for Business Tax Account. Processing may take up to ten (10) business days.

Getting the Application

The application, Form S-1, is available at www.state.vt.us/tax or by calling (802) 828-2515.

Exempt Organizations

If you are an exempt organization, you must receive a Vermont Business Tax Account to qualify for sales and use tax exemptions. The term "exempt organization" generally refers to organizations that qualify under section 501(c)(3) of IRS regulations. Other 501(c) organizations are eligible for certain limited exemptions.

The Internal Revenue Service determination granting you exemption status must accompany your application. If you have not received this determination, attach a copy of the articles of association and by-laws and the Department will issue you a temporary Business Tax Account and requested licenses. When your determination is received, send a copy to the Department for our review and records.

More than One Location

You will have one Vermont Business Tax Account, but each location must have its own license. Complete Form S-1 for each location. You will receive separate licenses and returns for each location.

Exception:

If you do not have a permanent Vermont location, such as selling only at craft show locations, you receive one license that you must keep with you for display at the location from which you operate.

Reporting and Paying the Tax

To report sales and use tax, use the **accrual** basis. The accrual basis recognizes income as earned at the time of the sale, even if the cash associated with the sale has not yet been collected. Thus, all sales and use tax for sales made in a single month are reported even though not all the receipts from the sales may have been received.

Example:

- Quality Widgets sold 26 widgets in February at \$100 each. Sales for the month of February are \$2,600. Two of the customers paid by credit card at the end of the month and the payments have not yet been received from the credit card company. Quality Widgets reports and pays tax on \$2,600 in sales.

If you make 65% or more of your sales on deferred or installment payments, you may apply to the Commissioner of Taxes for permission to report and pay tax on the payments rather than the initial sale. Absent this permission, the tax is due in full at the time of sale.

NEW Destination Of Taxable Item Determines Whether Local Option Sales Tax Applies

Effective January 1, 2007, whether or not local option sales tax must be collected by a seller is based on destination of the goods sold. Businesses not located in a local option sales tax town or an out-of-state business responsible for collecting Vermont sales tax need to collect the local option sales tax in addition to the state sales tax when the business ships into a town with a local option sales tax. The local option sales tax is reported by individual town or city on your return so separate accounting is required. See page 14 for a listing of local option towns.

NEW Consolidated Filing (effective January 1, 2007)

Businesses with more than one location that file electronically can file a consolidated return. For Vermont based businesses, use the Department's online filing system, VTBizFile. Businesses registered through the Streamlined Sales Tax Agreement use their Certified Service Provider or Certified Software.

Filing Frequency

The Department determines your filing frequency (how often you report and pay the taxes) based on the amount of your tax obligation. The Department reviews its records annually and may change your filing frequency based on a change in the amount of your tax obligation or based on your tax compliance history. You will receive at least 30 days notification of any change. You can request, in writing, a different filing frequency, but any change will not take effect until the beginning of a quarter (January, April, July, or October). Do not change your filing frequency until you receive written notification from the Department.

A tax return must be filed as scheduled even if no tax is due.

The Department sends you returns once a year preprinted with your name, address, business tax account number, the reporting period, and the due date. The sales and use return booklets contain returns to report from July to the following June.

The due dates for filing returns are:

<u>Monthly</u>	\$2,501 or more in annual tax: Due the 25 th of the following month (except Jan: due Feb 23)
<u>Quarterly</u>	\$501 - \$2,500 in annual tax: Due the 25 th of the month following the end of the quarter
<u>Annually</u>	\$500 or less in annual tax: Due Jan 25 th

VTBizFile offers a fast, easy online way to file and pay your sales & use, meals & rooms and withholding taxes. There is no charge for filing. Payment options include ACH debit (free) and credit card (Convenience fee on credit card payments over \$200).

NEW See Streamlined Sales Tax –

Filers may contact the Department or refer to the Department's website for filing frequency.

Personal Liability for the Tax

Liability for sales tax falls not only on the business required to collect the tax, but also on any owner, officer or agent of the business who is responsible for collection and payment of the tax for the business. The Department of Taxes can hold such individuals personally liable for any tax that is not timely reported and remitted by the business.

SALES TAX is a tax imposed on retail sales. A “retail sale” means a sale for any purpose other than for resale, sublease or subrent. The term “sale” includes any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for consideration, or any agreement therefore. The customer pays the tax. The retailer collects the tax on behalf of the State of Vermont.



What is Taxable?

You must collect Vermont sales tax unless the sale is specifically exempted from tax by law.

Examples of sales subject to tax are:

- Retail sales of tangible personal property - Any retail sale, lease or rental of tangible personal property in Vermont. Rental of equipment with an operator is exempt as a contract for personal services; however, the purchaser of the equipment pays tax at the time the equipment is acquired.
- **NEW (effective January 1, 2007)** Retail sales of alcoholic beverages with alcohol content of one-half percent or more (Non-alcoholic beer is not taxable)
- Retail sales of public utility services – Public utility services include gas and electricity, but do not include water. (**NOTE:** Residential use is exempt)
- Retail sales of prepaid telephone calling cards or prepaid telephone authorization numbers.
- Fabrication Charges – Any charges for producing, fabricating, printing or imprinting property for customers who furnish the materials used in the work. Examples include job printing, engraving (jewelers included), lettering memorials and monuments, silk screen printing (with the exception of printing on items not subject to sales tax, such as clothing), custom drapery, taxidermy, sign making (with the exception of sign making on property not subject to sales tax, such as real estate or motor vehicles), remaking bearings (enlarging the diameter of the bearing to accommodate a larger size shaft or turning down the shaft to a smaller diameter) and machine work to make new parts or to change existing parts into new items. (**NOTE:** repair parts are taxable)
- Admissions to Places of Amusement – The charge for admission, including any service or cover charge to enter or right to use any place where any facilities for entertainment, recreation or amusement are provided, is taxable. Examples include, but are not limited to:
 - Athletic events
 - Fitness club memberships
 - Country club dues
 - Exhibitions by artists or performers
 - Dramatic and musical performances
 - Movie theaters
 - Game facilities such as golf courses, driving ranges, horseshoe pits, bowling alleys
 - Ski areas
 - Campgrounds with recreational facilities
 - Cable and satellite television services

See page 12 for Admissions or Amusement Charges.

What is Tangible Personal Property?

Tangible personal property is defined by Vermont sales and use tax law as:

Personal property which may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software.

NEW (effective January 1, 2007) “Canned” software delivered electronically is subject to the sales tax. Prior law taxed “canned” software purchased in a package with CD and other installation materials; but if the purchaser downloaded the software, no sales tax applied.

Renting or Leasing

Rentals and leases of tangible personal property are “sales” for purposes of Vermont sales and use tax. Charges for a license or right to use are also sales and are subject to the tax.

Barter Transactions

Generally, a barter transaction is subject to sales and use tax. For more information, see Technical Bulletin 27, available on the Department’s website.

Charging the Sales Tax

The Department makes available sales tax charts showing the amount of tax to collect on the sales price. The charts can be downloaded from the Department's website or can be ordered by fax at (802) 828-5787, or by calling (802) 828-2551.

If you receive payment in a foreign currency, you must convert the foreign currency into U.S. dollars at the current exchange rate and collect the tax based on that amount.

NEW (effective January 1, 2007)

The sales tax is calculated based on the sales price, which means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented.

The following are excluded from the sales:

- Discounts, including cash, term, or coupons not reimbursed by a third party that a seller allows to reduce the sales price;
- Interest, financing, and carrying charges from credit sales, provided the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
- Taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;
- Installation charges;
- Credit for trade-in of like-kind property (see Reg. §1.9701(4)-2), and
- Telecommunications nonrecurring charges.

Costs that cannot be deducted from the sales price are:

- The seller's cost of the property sold;
- Cost of materials used, labor or service cost, interest, losses, transportation costs to the seller, all taxes imposed on the seller, and any other expenses of the seller;
- Charges by the seller for any services necessary to complete the sale, other than installation charges;
- Delivery charges; and
- Consideration received by the seller from a third party that reduces the price to the buyer. See 32 V.S.A. § 9701 (4)(A)(iv).

Examples:

- A widget costs \$175. Your customer trades in an old widget for which you allow \$75 towards the new widget. You charge the customer the \$100 balance due and then give a 2% cash-and-carry discount. Sales tax is due and to be collected on the \$98 (sales price less the trade-in less 2% discount).
- You sell six widgets on account to a customer for \$1,050 with terms of 2% 10/net 30. You invoice the customer for \$1,050 plus \$63 sales tax on that amount. The customer pays the invoice in eight days. The sales price has now been reduced to \$1,029 and sales tax reduced to \$61.74. If you have not reported the sale on a return, your taxable sale amount for this transaction is \$1,029 with sales tax due of \$61.74. If you have reported the sale on a return, you reduce the taxable sales by the \$21 discount.
- You sell Product A in your store as assembled. Product A costs you \$50 plus \$12 freight, and you pay \$25 for assembly. Your selling price of the assembled product is \$200. Sales tax is collected on the selling price of \$200, with no deduction for your freight or assembly costs.
- Your customer buys furniture. You charge \$495 plus \$35 delivery. The sales tax is due on \$530.

There is a cap on the tax charged on tracked vehicles subject to sales and use tax. For sales occurring after June 30, 2005, the maximum tax is \$1,100. The cap is subject to change every two years. See the Department's website or call 828-2551 for the most current cap amount.



Delivery, Shipping and Handling Charges



NEW (effective January 1, 2007) Delivery charges are part of the sales price on items subject to sales tax, and are taxable even if stated separately on the invoice. "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser including, but not limited to, transportation, shipping, postage, handling, crating, and packing. See page 14 for shipping to towns with a local option sales tax.

If a shipment includes exempt property and taxable property, the seller may allocate the delivery charge by using:

1. a percentage based on the total sales prices of the taxable property compared to the sales prices of all property in the shipment; or
2. a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment.

If the seller elects not to allocate the delivery charge, the entire charge is subject to the tax.

Examples of delivery charges to be included in the sales price:

- A catalog order of taxable goods is delivered to a catalog store for you to pick up there. The delivery charge is separately stated.
- You deliver taxable goods to a customer in Vermont using your own truck.
- You order taxable goods from a catalog. The purchase is shipped directly to you by common carrier and the shipping charges are separately stated.
- You send a customer's order of taxable goods by U.S. Mail and separately state the charge for postage on the invoice.

Delivery, shipping and handling charges are not included in the sales price if the item being delivered is not subject to sales tax.

Example:

A veterinarian orders veterinary supplies for use in her business. The supplies cost \$200 plus \$15 shipping. Because the veterinary supplies are not subject to tax, the shipping is also exempt.

Installation or Repair Labor Charges

Labor charges for installation or repair of the product sold are not taxable as long as the labor is separately stated on the invoice.

The entire charge is taxable if the labor is not separately stated. Also, the parts used are generally subject to tax.

Gift Certificates

Gift certificates are treated like cash. No sales tax is collected at the time the certificate is purchased. When a customer presents a gift certificate, the customer receives credit against the total cost of the purchase and pays the difference, if any. The sales tax applies to the total amount of the purchase; **not** the amount due after the certificate is deducted.

Coupons

For retailers who honor manufacturer's coupons, the sales tax is due from the customer on the full cost of the item, without deduction for the coupon, because the manufacturer reimburses the retailer for the coupon discount.



For a retailer who issues a coupon allowing a reduced price to customers bringing in the coupon, the sales tax is due on the final cost to the customer. In this instance, the retailer is selling at a reduced cost and is not reimbursed for the difference.

Examples:

- Sudzee Soap Manufacturer placed coupons in the newspaper offering 25 cents off a \$1.00 package of soap. A customer brings the coupon into Soaps R Us Store. The store reduces the price of the soap by 25 cents. The customer pays 75 cents for the soap. The store sends the coupon into the manufacturer and receives 25 cents for each coupon accepted. The store collects 75 cents from the customer but the tax due is on \$1, the full sales price of the item.
- Soaps R Us Store sells its own handmade soap. To introduce these soaps, the store offers a buy-one-get-one-free promotion if the customer brings in a coupon from the local newspaper. Each soap costs \$2. Customers bringing in the coupon get two soaps for \$2. Since the store receives no reimbursement for the free soap, tax is due on the \$2 cost to the customer.

Collecting the Sales Tax from the Purchaser

You collect the tax at the time of the sale on the sales price. The entire sales tax is reported and remitted at the time of the sale, even if it is an installment sale.

Package Pricing (Items Subject to Multiple Taxes or Combined Taxable and Exempt)

Charges for multiple items subject to different taxes or taxable and exempt items may be included in a single package price.

Examples:

- Mr. Maylabel sells a new washing machine for \$500. The sales price includes installation labor. The full \$500 is subject to sales tax because the installation labor is not separately stated on the customer's bill.
- Down Hill Ski Lodge offers a weekend package price for meals, lodging, ski lift tickets, and cover charges at its nightclub. Down Hill can sell the package by:
 1. Separately stating each package item and applicable tax on the customer's bill. Down Hill applies the meals and rooms tax to the meal and lodging. The ski lift ticket and nightclub cover charges are subject to sales tax. If Down Hill paid the sales tax on the lift ticket at the time of its purchase, however, it should indicate "tax included" on the invoice for this item and charge the sales tax on the cover charge only.
 2. Selling the package as "tax included" without separately stating the charge for each item. However, the customer's bill **must** indicate that the sales tax and/or meals and rooms tax is being charged. Down Hill then makes a reasonable allocation of the charges for each item on its books and uses those charges to report the sales receipt and applicable tax on the tax return.
 3. Selling the package at one price for all items and not identifying the package as tax included. If items are not separately stated, the entire price is subject to the higher tax rate. Here, the meals and rooms tax rate would be applied on the full package price.

Package Pricing (Bundled Transactions)

This type of transaction occurs when there is a retail sale of two or more distinct and identifiable products sold for one price and the items are not itemized. Sales tax must be collected on the sales price if any item in the transaction would be taxable if sold separately. See Regulation Reg. §1.9701 (4) – 3. (available on the Department's website)

Exempt Customers

You must collect the tax on all taxable sales unless your customer gives you a valid

- Exemption certificate completed by the buyer
- Direct Pay Permit Exemption Certificate
- Certificate issued by the U.S. Department of State indicating that the purchaser is a foreign diplomat and may purchase the items tax-free
- Tax exempt entity identification, for example:
 - American Red Cross
 - Non-profit medical & hospital insurance organizations
 - Credit unions
 - Volunteer fire or ambulance departments.

As the seller, you need to have the exemption certificate or a copy of the Direct Pay Permit on file prior to or at the time of sale. If you do not have the exemption certificate or Direct Pay Permit, you will be responsible for the tax.

State of Vermont as a Customer

Purchases made by and paid directly by the State of Vermont are exempt from Vermont sales and use tax. If a Vermont government employee purchases an item, the sale is taxable even if the State reimburses the employee on an expense account claim. Credit card purchases by Vermont government employees are exempt only if the State agency pays the credit card bill directly.

Purchases by non-Vermont state governments and non-VT schools are generally taxable.

Generally, purchases made on a credit card with both the State of Vermont and employee's name are taxable. Check with the specific state agency if you are not sure.

Federal Government as a Customer

Purchases made by and paid directly by the Federal government are exempt from Vermont sales and use tax. If a Federal government employee purchases an item directly, the sale is taxable even if the Federal government reimburses the employee on an expense account claim. Credit card purchases by Federal government employees are exempt only if the Federal government agency pays the credit card bill directly. See *also* Technical Bulletin 2 at the Department's website.

See <http://www.taxadmin.org/fta/rate/b-1598.html> for more information on the Federal credit cards to determine if the purchase is exempt. Check with the specific Federal agency if you are not sure.

If you give your customer a sales slip, invoice or receipt, the tax must be separately stated. If you fail to charge the tax or to state the tax separately, the Department may assess you the tax due.

If collecting the tax separately from the customer is impractical, you may make written application to the Commissioner of Taxes to sell tax-included. Upon approval, you may sell the item tax-included but you must be sure the customer knows that sales tax is being charged. For example, a movie theater selling tax-included tickets must display, in a manner visible to customers, that the price includes the sales tax.

Offering to Pay the Sales Tax for the Customer

You cannot offer, advertise or in any way indicate to the customer that you, as seller, will pay the sales tax for the customer or that no sales tax will be charged. The customer must know the amount of sales tax he or she is paying.

Buying to Resell

You can buy otherwise taxable items tax-free if you are buying for the purpose of resale. You need to give your vendors an exemption certificate for their records. You can obtain the exemption certification on the Department's website under "Forms, Business and Corporate." You can also request the Department send you the exemption certificate by calling (802) 828-2551.

If you frequently purchase from the same vendor, you can place one certificate on file to cover multiple purchases.

Contractors and the Sales and Use Tax



Contractors pay the sales tax on all materials, supplies, tools, and equipment used in the construction business as they are considered the retail purchaser of the items. The items are not sales for resale because the contractor is selling real property, which is not subject to the sales tax, rather than tangible personal property. The contractor pays the sales tax to his or her vendor and does not collect the sales tax from the customer.



Contractors who also make over-the-counter retail sales must collect the tax from the customer and remit the tax to the State. The contractor is able to buy tax-free the items intended to be sold at retail.

Materials and supplies purchased for use in construction on projects for customers who are tax-exempt (the Federal government or the State of Vermont, for example) will also be tax-exempt for the contractor. To qualify for the exemption, the contractor must provide the vendor with an exemption certificate given to the contractor by the exempt organization. Note: This exemption generally does not apply to purchases or rentals of tools or equipment by the contractor.

Direct Pay Permit

Some contractors, repairpersons, and manufacturers buy items for both taxable and non-taxable use. If the use cannot be determined at the time of purchase, the business may apply for a Direct Pay Permit (also known as a Direct Payment Permit). This allows all purchases to be made tax-free. The business then pays use tax directly to the Department on the taxable items on its own sales and use tax return. The holder of a Direct Pay Permit cannot use it for purchases not subject to sales and use tax (such as meals and lodging) or for transactions not covered by the Direct Pay Permit (such as admissions to places of amusement, telecommunication services or purchases for personal use).

The application for a Direct Pay Permit must be made in writing to the Commissioner of Taxes. The application must show that most purchases are tax-exempt, and that it is impractical or inequitable to require payment of the sales tax at the time of purchase. Eligible businesses will be provided with a Direct Pay Permit exemption certificate.

As a retailer required to collect tax, you will not be held liable for the sales tax, even if it turns out the sale was taxable, when your purchaser provides you with a properly completed Direct Pay Permit Exemption Certificate. The Department of Taxes will seek payment from the holder of the Direct Pay Permit.

Sales Exempt from Sales and Use Tax

- **Sales for Resale** – are exempt when the purchaser presents the seller with a valid exemption certificate.
- **Sales Delivered Outside of Vermont** – are exempt when the purchaser does not take possession of the goods in Vermont and the goods will be mailed or delivered to the purchaser outside of Vermont. Goods delivered out-of-state are exempt even if the delivery is made in the seller's vehicle. Note: The state in which the customer takes delivery may require you to collect its sales tax.

Casual Sales - Isolated or occasional (casual) sales of property acquired by a person for his or her own use and who does not regularly sell that type of property are generally exempt from tax. Note: The casual sale exemption does not apply to sales of aircraft, snowmobiles, motorboats, or vessels 16 feet or longer. These items are always subject to the sales and use tax.

Examples of casual sales:

1. A retail clothing store makes a one-time sale of an old cash register purchased for use in the business. The store is in the business of selling clothing, not cash registers. This is a casual sale and no sales tax is required to be collected.
2. A homeowner is selling clothing, furniture and appliances at a garage sale. Provided the items were originally purchased for his own use and the garage sale is not a regular or continuous event, no sales tax is required to be collected.
3. An individual sells a snowmobile to her neighbor. Even though this is a one-time sale, sales and use tax is due on the sales price. The purchaser is responsible for paying the use tax on Form SU-452. Generally, the use tax is paid when registering the snowmobile at the Vermont Department of Motor Vehicles. However, if the snowmobile is not registered, then the buyer must send the Form SU-452 directly to the Vermont Department of Taxes.
4. A person decides to have an auction to sell off all the items he bought for personal use that have accumulated in his barn. He hires an auctioneer and the auction is held on his property. This is a casual sale.

Note: If **any** of the following apply, the sales are taxable:

- the auctioneer takes title to the property; or
- bidders pay the auctioneer directly for the auctioned property; or
- the auctioneer commingles the property to be auctioned with other property, not belonging to the party for which the auctioneer is agent; or
- the auctioneer removes the property from the seller's premises.

Items Exempt from Sales and Use Tax

Some items are exempt from sales and use tax because Vermont law specifically exempts the items. No exemption certificates are needed to sell tax-exempt. These items include:

- Food
- Medicines and drugs, including over-the-counter products (for example aspirin, cough syrup, and antiseptics)
- **NEW** Clothing and footwear (effective 1/1/2007)¹ See also page 14 for local option sales tax information
- Newspapers (Magazines, advertising supplements and other reading materials are taxable)
- Sale of United States flags by or to 501(c)19 veterans' organizations
- Rental of furniture included in the rent for a leased or rented residence (The furniture is taxed when purchased)
- Charges for coin-operated laundries or car washes
- Agricultural machinery and equipment for use directly and exclusively on a farm for production of tangible personal property for sale
- Agricultural feeds, seeds, plants, baler twine, silage bags, agricultural wrap, sheets of plastic for bunker covers, liming materials, breeding and other livestock, semen breeding fees, baby chicks, turkey poults, agriculture chemicals other than pesticides, veterinary supplies, and bedding if they are the type typically used in agriculture. Fertilizers and pesticides for use in the production for sale of tangible personal property on farms are exempt.



Agricultural bedding is used for animals on a farm* and includes materials such as sawdust, straw, mulch, ground newspaper, absorbent materials, or rubber cow mats, etc.



Ornamental/non-edible plants are taxable.
Agricultural items such as fertilizers or pesticides not used on a farm* are taxable.

*Farm means an agricultural operation producing tangible personal property for sale.

- Electricity, oil, gas and other fuels sold for residential use
- Electricity, oil, gas and other fuels used directly and exclusively for farming
- Electricity, oil, gas and other fuels used directly or indirectly for manufacturing uses
- Receipts from gaming or amusement machine games such as video games, pinball, musical, vocal, or visual entertainment machines operated by coin, token or bills.
- 40% of the purchase price of a mobile home or modular house when sold as tangible personal property

¹ NOT exempt are specialty clothing or footwear designed primarily for athletic activity, protective use, and not normally worn except during the athletic activity.

Log cabin kits or panelized housing are not mobile or modular homes. Mobile or modular homes come fully or mostly constructed. The 40% provision excludes the approximate labor costs incurred with “stick built” homes where the owner pays sales tax on the materials but not on the labor. A log cabin kit or panelized home contains the materials to build the home and the purchaser pays the labor charges.



Items Exempt from Sales and Use Tax Because They are Subject to Other Taxes

Some items are exempt from sales and use tax because they are subject to another tax. These items include:

- Gasoline and diesel fuel, although off-road fuel used for purposes other than propulsion of a motor vehicle is subject to sales tax.²
- Sales of meals and rooms that have been subject to the meals and rooms tax.
- The sale or rental of cars and trucks. These are subject to purchase and use tax administered by the Department of Motor Vehicles.
- Motorcycles, heavy equipment, tractors and trailers registered with the Department of Motor Vehicles. If not registered, they may be subject to sales and use tax.³

Admissions or Amusement Charges Exempt from Sales and Use Tax

Admission charges or fees to the following places of amusement are exempt from tax:

- Federal, state or municipal recreational facilities
- Non-profit museums
- 501(c)(5) agricultural organizations when presenting agricultural fairs, field days or festivals
- Facilities owned by a 501(c)(3) organization
- Admission to performances by a 501(c)(3) organization are exempt only if each of these criteria are met:
 1. The organization bears the entire risk of loss of the production,
 2. No other person shares in the profits from the production,
 3. No other person is party to the contracts with the performers of the production,
 4. The organization is solely responsible for collection of all receipts for the production, and
 5. The organization is solely responsible for payment of all expenses associated with the production and accounts for receipts and expenses on its books and records.

Sales BY Entities Exempt from Sales and Use Tax

Items sold by an exempt entity that are not subject to sales and use tax include:

- Sales of fresh cut flowers by a 501(c)(3) organization during a single annual event not to exceed seven days.
- Sales other than amusement charges by a 501(c)(3) organization when the gross annual sales of taxable items in the prior year did not exceed \$20,000. This must be evaluated each year.
- Amusement charges. See Admissions or Amusement Charges Exempt from Sales and Use Tax (above)
- Sales by government entities when the product is not a kind ordinarily sold by private individuals. For example, spirituous liquors sold by Vermont state liquor stores are exempt, but beer and wine sold by the state liquor stores is subject to tax.
- Sales by 501(c)(5) organizations when presenting agricultural fairs, field days or festivals.
- Sales of amusement charges by 501(c)(4) – (13) and (19) organizations, limited to four special events a year not to exceed four days a year. Special events do not include usual or continuing activities of the organization. If more than four events are held, the organization must give prior notice to the Commissioner which events will be elected as exempt. See *a/so* Technical Bulletin 2, available on the Department’s website.

Sales TO Entities Exempt from Sales and Use Tax

Some sales are exempt from sales and use tax because the purchaser is an entity exempted from tax. The following are exempt entities:

Fraternal and civic organizations are not exempt from sales tax.

- State of Vermont and its agencies and instrumentalities, public authorities, public corporations, and political subdivisions including Vermont cities and towns, Vermont public schools and state colleges
- Federal government and its agencies and instrumentalities when purchased directly by the agency or instrumentality
- 501(c)(3) organizations
- A 501(c)(4) organization whose bylaws provide for contributions of net income to a 501(c)(3) organization (In general, other 501(c)(4) civic organizations are not exempt)
- Contractors purchasing materials and supplies for an exempt construction project

² Jet fuel is subject to sales and use tax. Diesel fuel used to run power take-off equipment (cherry pickers, drills, refrigerator units, log loaders, trash compactors, or other specialized equipment) is subject to sales and use tax.

³ Sales tax on a tracked vehicle is capped. See page 7.

- Volunteer fire departments, ambulance companies and rescue squads buying equipment, supplies and building materials for official use
- Foreign diplomats with exemption cards issued by U.S. Department of State
- Non-profit medical and hospital insurance organizations
- The American Red Cross
- Credit unions

See *also* Technical Bulletin 2, available on the Department's website.

Industry Exemptions from Sales and Use Tax

Some purchases by a specific industry are exempt from sales and use tax, including:

- Medical and dental equipment and supplies used to alleviate human pain and suffering.
- Funeral items and items for funeral or crematory services, such as caskets, vaults, crematory urns and other property sold as a necessary part of a funeral service. Items such as flowers, guest books, videos or photographs, and monuments are not considered an integral part of the funeral service or preparation and are taxable.
- Manufacturing
 1. Property that becomes a part of a manufactured product for sale or is used up in the process of manufacturing property for sale. See Regulation 1.9741(14).
 2. Machinery and equipment used directly and exclusively in the manufacture of property for sale.
 3. Certain packaging and shipping materials used by a manufacturer or distributor. Note, however, that packaging and shipping materials purchased by or used in a retail operation or restaurant are taxable.
 4. Electricity, oil, gas, and other fuels used directly or indirectly in the manufacture of a product for sale.
- Movie Theaters

Films acquired by a movie theater that will be charging a taxable admission fee to view the film.
- Professional Services
 1. Documents conveyed for the sole purpose of recording or memorializing professional services rendered.
 2. Charges by an advertising agency for the transfer of possession or right to use advertising materials when the transfer is in conjunction with the delivery of advertising services, as defined in Vermont law. See 32 V.S.A. §§ 9701 (16), (17), (18).

Tangible personal property included as part of personal services is exempt if the value is less than 10% of the total charges and is not the focus of the transaction. The purchase of photographs is subject to tax even if the photographer characterizes the transaction as a sale of professional services, because the focus of the transaction is the photographs, not the service.

- Ferryboats

Ferryboats, including depreciable parts, machinery and equipment to be installed as a capital asset in the ferryboat if the owner holds him/herself out to the general public as engaging in water commerce primarily in carriage of persons or property for compensation or hire.
- Airlines

Aircraft, including depreciable parts, machinery and equipment to be installed as a capital asset in the aircraft if the owner holds him/herself out to the general public as engaging in air commerce primarily in the carriage of persons or property for compensation or hire.
- Railroads
 1. Railroad rolling stock, including depreciable parts, machinery and equipment to be installed as a capital asset in the rolling stock sold for use primarily in carriage of persons or property for compensation or hire. Rolling stock includes locomotives, cabooses, boxcars, tank cars, flatbed, cars, maintenance of way equipment, and all other wheeled vehicles used on rails or tracks.
 2. Tangible personal property incorporated into a rail line for construction, maintenance, repair, improvement or reconstruction of a rail line.
- Metering Systems

Tangible personal property incorporated into a net metering system as defined under 30 V.S.A. § 219a.
- Construction

Sales to an end user of scrap materials from construction or demolition that are diverted from waste disposal by such sale. The seller cannot be the construction or demolition company that produced the scrap and the seller must have received the materials free of charge from the producer.

Documenting Exempt Sales

Generally, your purchaser will present you with a valid exemption certificate or direct pay permit. If the sale is exempt because the purchase is shipped out of state, you need to record this information on the invoice. Please see the instructions with the exemption certificate for further information or contact the Department.

TELECOMMUNICATIONS SALES TAX

The retail sales of telecommunication services provided to a Vermont service address is subject to the sales tax. Telecommunication services include voice over internet protocol.

The tax is imposed on the telecommunications purchaser and collected by the telecommunications service provider. Sales tax rules apply unless specifically noted otherwise. As of October 1, 2003 the tax rate is the same as the sales tax.

NEW (Effective January 1, 2007):

- The first \$20 monthly charge per line to each residential purchaser or user of local exchange services will no longer be exempt.
- Telecommunication services become subject to the local option sales tax if the services are delivered in a town that collects the local option tax.

Vermont Business Tax Account

Vendors making telecommunication sales must have a Vermont Business Tax Account and collect the telecommunication tax from their customers. Use the S-1 application to apply for an account.

Operating More Than One Location

Only the main accounting location or headquarters needs to register. All telecommunication sales will be reported on this account.

Reporting and Paying the Telecommunications Sales Tax

Your filing frequency will depend on the annual amount of sales and use tax for all sales subject to sales tax. More information can be found under "Reporting and Paying The Tax."

Exemptions from Telecommunications Tax

Charges for the following are exempt:

- Coin-operated telephone service
- Paging service (Sales of pager devices are taxable)
- Private communications service
- Value added non-voice data service
- Wholesale transactions between telecommunications service providers where the service is a component part of the service to the end user. These include, but are not limited to, network access charges and interconnection charges paid to a local exchange carrier
- Sales to entities exempt from sales tax

Exemptions for paging service, private communications service and value added non-voice data service are effective for sales on or after July 1, 2005.

Limitation on amount of tax to be paid

No purchaser or user shall be subject to telecommunication tax on purchases in excess of \$10,000 in any one calendar year. See *also* Technical Bulletin 7, available on the Department's website.

LOCAL OPTION SALES TAX

As of the date of this booklet, the following towns have a 1% local option sales tax administered by the State:

Burlington **Stratton**
Manchester **Williston**

The Vermont Department of Taxes administers and collects the local option tax for these towns.

NEW Only Items Subject To State Sales Tax May Have Local Option Sales Tax Applied Effective January 1, 2007, the local option sales tax applies only to items subject to the state sales tax. Previous local option authorizations allowed towns to collect local option sales tax on all clothing sales even though clothing under \$110 was exempt by state law. Clothing, regardless of its price, becomes exempt from both the state and local option sales taxes on January 1, 2007.

NEW Destination Of Taxable Item Determines Whether Local Option Sales Tax Applies Effective January 1, 2007, the application of local option sales tax is based on destination. A Vermont business not located in a local option sales tax town or an out-of-state business responsible for collecting Vermont sales tax must collect the local option sales tax in addition to the state sales tax if the business ships into a local option sales tax town.

There is **no change** in the way local option sales tax is collected on taxable sales made in a store located in a local option town. The store must collect the tax on in-store sales. If the store is shipping a taxable purchase to an out-of-town location that does not have a local option sales tax, it does not collect the tax on the sale.

NEW Telecommunications Subject To State Sales Become Subject To Local Option Sales Tax When Service Is Provided To A Local Option Sales Tax Town Address Effective January 1, 2007, the local option sales tax as well as the Vermont sales tax applies to telecommunication services provided to local option sales tax towns.

CITY CHARTER TAX ON AMUSEMENT CHARGES

As of the date of this booklet, the **City of Rutland** has a local option tax administered by the city.

This city imposes its own city amusement tax authorized by the City Charter. The city administers and collects the tax.

You pay the city directly on its tax return.

For more information, contact:

- City of Rutland (802) 773-1801

USE TAX

is a tax imposed on the buyer of property used in Vermont. It applies only if sales tax was not paid when the property was purchased and the property would have been taxable in Vermont. The purchase can be either in Vermont or outside the State. The use tax has the same rate, rules and exemptions as the sales tax. The sales tax and the use tax work together to create the same tax result whether property is purchased from a vendor who does or does not collect sales tax.

What is Subject to Use Tax?

Any item brought into Vermont that would be subject to the sales tax but is purchased without payment of the tax.



What Constitutes Use in Vermont?

“Use” as defined in Vermont sales and use tax law. Property that is received, stored, operated, or consumed in Vermont is subject to the tax even though it is later to be removed from this state. In general, any exercise of right or power over tangible personal property by the purchaser is considered use. See 32 V.S.A. § 9701(13).

Do I Have to Pay a Use Tax?

You have a use tax obligation if you use property in Vermont and did not pay a sales tax on the property, or if the tax you paid was less than the Vermont sales tax rate.

A use tax liability most often arises when:

1. You buy property out-of-state and have it delivered to you in Vermont.
2. You buy property out-of-state and bring it into Vermont.
3. You buy property in Vermont and the seller fails to collect the sales tax from you.
4. You take items out of inventory for use that were purchased tax exempt for resale.
5. You use property you normally produce for sale.

Examples:

- You order office equipment from a company in Massachusetts and have it shipped to you in Vermont. No Massachusetts sales tax is paid as the equipment was shipped to an out-of-state address by the vendor. Vermont use tax is due on the purchase price.
- You buy a picture from a transient vendor selling out of the back of a truck at a parking lot in Vermont. The seller does not charge sales tax. You owe the use tax.
- You are in the business of manufacturing light bulbs. You use some of the light bulbs for lighting in your business. You owe a use tax on the price at which you normally sell the light bulbs.
- You buy a snowmobile in a state with a 2% sales tax and pay that state's sales tax upon purchase. You bring the snowmobile back to Vermont and register the snowmobile. You owe a Vermont use tax on the purchase price for the difference between the 2% you paid and the Vermont sales tax rate.

- You own an office supply store and buy personal computers tax-free for the purpose of reselling them to your customers. You select one of the personal computers for your own use in your business. A use tax is due on the purchase price of the personal computer.
- You buy a book and magazine subscription from an internet company and no sales tax is charged. A use tax is due on both the book and subscription.
- You find on eBay the Star Wars collector plate you need to complete your collection. You order and pay for the plate and have it shipped to your home in Vermont. Use tax is due on the purchase price of the plate, including any delivery, shipping or handling charges.
- You buy cabinetry from Canada that is shipped to you in Vermont. Use tax is due on the cost of the cabinetry plus any delivery, shipping or handling charges.
- You buy flooring in a state without sales tax to install in your storefront, and transport it in your car to Vermont. Use tax is due on the price of the flooring.

Calculating Use Tax

The use tax is due on items that would be subject to the Vermont sales tax and at the same tax rate. For items purchased at retail, the tax is on the purchase price. For items you manufactured, the tax is on the price at which you normally sell the items. For items that have been fabricated, printed or imprinted, the tax is on the amount paid for the property plus the fabrication labor or service charge.

Paying the Use Tax

There are three ways to pay the use tax.

- Purchases during the year for your own personal use can be reported and paid on the personal income tax return. The income tax booklet provides a use tax table based on a percentage of Federal adjusted gross income. The table provides the average use tax by income level.

You cannot use the table on items costing \$1,000 or more. Multiply the purchase price by the sales tax rate. Businesses (includes those filing Federal Schedule C) cannot use the income tax return to report use tax. The business reports the tax on its Vermont sales tax return or on Form SU-452 near the time of the purchase.

- For purchases of snowmobiles or motor boats, you pay the use tax upon registration. Snowmobile Form TA-VD-38 and Motor boat Form TA-VD-37 are available at www.aot.state.vt.us/dmv/forms from the Department of Motor Vehicles.
- For licensed businesses making taxable purchases upon which no sales tax was charged, report the purchases as subject to use tax on your sales and use tax return and remit the tax with the return.
- Businesses annually purchasing more than \$2,000 of property subject to use tax need to obtain a sales and use tax license. Use Form S-1, available from the Department or at our website.

Sales Tax Paid to Another State If another state's sales tax is paid on your purchase, Vermont gives credit for any sales tax paid legally to another state to avoid double taxation. If that state's sales tax is less than Vermont's, the purchaser is responsible for the difference. For example, sales tax in State A is 3% and sales tax in Vermont is 6%. The purchaser needs to pay a 3% use tax on the purchase.



NOPE - You do not get a refund from Vermont if you paid more than the Vermont tax to the other state.

In general, vendors outside Vermont should collect tax on shipments coming to Vermont. However, if the vendor does not have any connection with Vermont (for example, no store, staff, or deliveries into the State) the State may not have the ability to require the vendor to collect the tax. ***In these situations, the purchaser is then legally obligated to pay the use tax directly to the Vermont Department of Taxes.***

FUEL GROSS RECEIPTS TAX

is a tax on the retail sales of fuel, for which the seller is liable. There are two parts to the tax; one is measured by the receipts from the sale of fuels listed below and the other is measured by the number of gallons of heating oil and kerosene not used to propel a vehicle.



Fuels Subject to Fuel Gross Receipts Tax

Tax is due on one-half percent of gross receipts from the sale of the following fuels:

- Heating oil and kerosene (except when used to propel a vehicle)
- Propane gas
- Electricity
- Natural gas
- Coal

The one-half cent per gallon tax applies to the retail sale of heating oil and kerosene (except when used to propel a vehicle).

Both the tax on receipts and the per-gallon tax are paid on the same return to the Vermont Department of Taxes.

Special Note – Fuel Gross Receipts Credit:

**A seller of fuels may be eligible for a rebate of fuel gross receipts tax paid.
Call the Vermont Public Service Board at (802) 828-2358 for more information.**

Retailer Liable For Tax

Any retailer who sells \$10,000 or more annually of the fuels is subject to the tax. The \$10,000 may be the retail sales of any combination of the fuel types. The tax is on all receipts including the first \$10,000 in sales. Out-of-state fuel retailers making sufficient deliveries (\$10,000 or more annually) into Vermont are required to pay the fuel gross receipts tax on their Vermont sales.

Receipts Amount

With the exception of Vermont sales tax, all other costs, charges or taxes included in the gross sales price are receipts taxable under the fuel gross receipts tax.

Estimating Annual Receipts

If you can reasonably estimate that your annual sales of taxable fuels will be close to \$10,000, you should register to report and remit the fuel gross receipts.

Incorrect Estimate of Annual Receipts

If your actual sales are less than \$10,000, any tax paid will be refunded to you. You must send written notification to the Department. A refund must be claimed within three years of the return filing due date.

If your actual sales were \$10,000 or more but you estimated less, you owe the tax. The tax amount due will be calculated on the quarterly receipts and applicable interest and penalties will be added.

Vermont Business Tax Account

Use the S-1 to apply for an account.

Operating More than One Location

Only the main accounting location or headquarters needs to register. All fuel sales will be reported on this account. The \$10,000 threshold is the sum of sales from all locations.

Exemptions

The following sales by a fuel seller are not subject to tax:

- Sales for resale
- Sales of heating oil or kerosene used in an engine to propel a vehicle
- Delivery of fuel by a Vermont seller to an out-of-state address

No other exemptions apply. The tax is on the seller; therefore, sales to exempt organizations are still subject to the fuel gross receipts tax.

Documenting Exempt Sales

- A purchaser buying fuel for resale must present the seller with a valid resale exemption certificate.
- Heating oil or kerosene used in a vehicle may be noted on the invoice.
- Bulk sales of heating oil or kerosene where only a portion is used in a vehicle requires the purchaser to present an exemption certificate stating the percentage being used for the vehicle.

Billing Your Customer

This tax is imposed on the seller and not on the customer. The tax may **not be separately stated on the bill** and you may not in any way imply the customer is directly paying the tax. You may, however, include the following message on the customer's bill if you wish to let them know about the fuel gross receipts tax:

"The amount of this bill includes a 0.5% gross receipts tax, enacted in 1990, for support of Vermont's low income home weatherization program."

Reporting Installment Sales of Fuel

The tax is due at the time of the sale and not as each installment payment is received. If 65% or more of your sales are on installment, you may apply for special installment sales reporting.

Reporting and Paying the Fuel Gross Receipts

The tax is reported quarterly. You will receive a return from the Vermont Department of Taxes approximately 30 days prior to the due date.

NEW - STREAMLINED SALES TAX

The Streamlined Sales Tax Agreement ("SSTA") is a national agreement developed jointly by representatives of the various states and representatives of the business community as an effort to create more uniformity and simplification of sales tax compliance requirements. Businesses across the country have already voluntarily registered to collect sales tax for SSTA member states. The SSTA represents a positive step toward eliminating the competitive advantage that out-of-state internet and catalog retailers have historically held against Vermont-based businesses that are required to collect the Vermont sales tax.

Registering to Collect Vermont Sales Tax

- As a seller, you are not required to collect and remit tax to other states unless you already have a requirement to do so. Registration by sellers under SSTA is voluntary.
- You can register electronically.
Go to <https://www.sstregister.org/sellers/Entry.aspx>.

Business that voluntarily register through SSTA are simultaneously registered to collect sales taxes for all SSTA member states, including Vermont. Remember, you should register only if you agree to participate and collect sales tax for all SSTA member states.

Collecting Vermont's Sales and Use Tax and Local Option Sales Tax

Businesses who voluntarily register through SSTA must collect the sales and use tax and local option tax on the same taxable items as Vermont businesses.

Reporting and Remitting Vermont Sales Tax as a Voluntary Streamlined Sales Tax Registrant

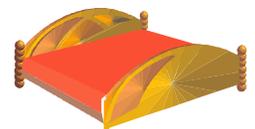
- All SSTA sellers should report and remit their Vermont sales tax electronically.
- Model 1, Model 2 and Model 3 sellers should remit their sales tax at the time of filing using ACH Credit or ACH Debit. If the ACH Credit or ACH Debit method fails, the seller may use a same day Fed wire.
- Model 4 sellers should remit their sales tax using VTBizFile. (Go to www.state.vt.us/tax, click on VTBizFile.) Payment options for VTBizFile include ACHDebit (free) and credit cards (Convenience fees are charged on credit card payments over \$200).
- All sellers can file "zero" returns with VTBizFile free of charge.

For more information, see the Department's website.

MEALS AND ROOMS TAX

Do I Need to Apply for a Vermont Business Tax Account?

YES, if you are selling meals subject to the meals tax or renting accommodations subject to the rooms tax, you need to apply for a Vermont Business Tax Account. Apply for your account and license **BEFORE** you open for business by completing Form S-1, available at the Department's website or by calling (802) 828-2551.



Exempt Organizations

An exempt organization acting as a restaurant in Vermont must obtain a Vermont Business Tax Account. If the exempt organization is selling taxable meals, as that term is defined by Vermont law, it must collect and remit the meals tax. See 32 V.S.A. § 9202 (10).

Similarly, if an exempt organization is acting as a hotel, as the term is defined by Vermont law, it must collect and remit the rooms tax. See 32 V.S.A. § 9202 (3).

Operating More than One Location

You will have one Vermont Business Tax Account, but if you operate more than one location, each location must obtain its own license and will file its own meals and rooms tax return. To obtain the licenses and returns, complete Form S-1 for each separate location.

Exception:

You do not need to obtain separate licenses if you operate more than one vending machine. Also, if you sell taxable meals at different locations from a mobile vending cart or vehicle, you need only obtain one license for the cart or vehicle.

Selling cigarettes, wine, magazines, souvenirs, etc.? Have employees? You also need accounts for these taxes. You can apply for all tax accounts on Form S-1.

Reporting and Paying the Meals and Rooms Taxes

To report meals and rooms sales, use the **accrual** basis. The accrual basis recognizes income as earned at the time of the sale, even if the cash associated with the sale has not yet been received. Thus, all sales made in a month are reported even though not all the receipts from the sales may have been received.

Example:

Quality Hotel rented out 26 rooms in February at \$95 each. Sales for the month of February are \$2,470. Two of the guests paid by credit card at the end of the month and the payment not yet been received from the credit card company. Quality Hotel reports \$2,470 in sales and \$222 rooms tax (\$2,470 X 9%).

The Department sends you returns once a year preprinted with your name, address, Business Tax Account Number, the reporting period, and the due date. The meals and rooms return booklets have returns to report from July to the following June.

VTBizFile offers a fast, easy online way to file and pay your sales & use, meals & rooms and withholding taxes. There is no charge for filing. Payment options include ACH debit (free) and credit card (Convenience fee on credit card payments over \$200).

Filing Frequency

The Department determines your filing frequency (how often you report and pay the taxes) based on the amount of your tax obligation. The Department reviews its records annually and may change your filing frequency based either on a change in the amount of your tax obligation or based on your tax compliance history. You will receive at least 30 days notification of any change. You can request, in writing, a different filing frequency, but any change will not take effect until the beginning of a quarter (January, April, July, or October). Do not change your filing frequency until you receive written notification from the Department.

The due dates for filing returns are:

Monthly \$501 in annual tax:
Due the 25th of the following month (except Jan: due Feb 23)

Quarterly \$500 or less in annual tax:
Due the 25th of the month following the end of the quarter

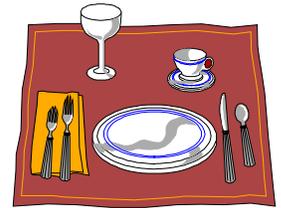
Personal Liability for the Tax

Liability for meals and rooms tax falls not only on the business required to collect the tax, but also on any officer or agent of the business who is responsible for collecting and remitting the tax for the business. The Department of Taxes can hold such individual personally liable for any tax that is not timely reported and remitted by the business.

A tax return must be filed as scheduled even if no tax is due for that reporting period.

MEALS TAX

is a tax on the receipts from the sale of taxable meals and beverages. Meals and non-alcoholic beverages are taxed at a different tax rate than alcoholic beverages. The separate, higher tax rate on alcoholic beverages applies to sales by holders of first and third class liquor licenses issued under Chapter 9 of Title 7 of the Vermont statutes.



Definition of Restaurant

The type of sales and amount of sales determine if a business is a restaurant. Vermont law specifically defines “restaurant” as:

- 1) An establishment from which food or beverage of the type for immediate consumption is sold or for which a charge is made, including, for example, a café, cafeteria, dining room, diner, lunch counter, snack bar, private or social club, bar, tavern, street vendor, or person engaged in the business of catering, or
- 2) An establishment whose total sales of food and beverage in the previous taxable year were, or in the first taxable year are reasonably projected to be, at least 80% taxable food and beverages.

All food, including candy and confections, are taxable when sold by a restaurant, except grocery type items sold for take-out which are exempt even if sold by a restaurant. In addition, food or beverage sold from a vending machine located on the premises of a restaurant is subject to the tax.

These are *not* restaurants:

- A snack bar (defined as a counter with no seating at which prepared food is offered only for self-service) located on the premises of a retail grocery store or convenience store
- A vending machine not located on the premises of a restaurant

Note: Some items are taxable even when sold by a business not defined as a restaurant. For example, sandwiches (except frozen), heated food or beverages, food or beverages from a salad bar, party platters and prepared food are subject to the tax even when sold by a grocery or convenience store.

What is a Taxable Meal?

- Any food or beverage furnished in Vermont by a restaurant for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises.
- If furnished by other than a restaurant, any nonprepackaged food or beverage furnished in Vermont for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises. See 32 V.S.A. § 9202 (14) for the definition of “prepackaged food.” \
- Sandwiches (except frozen), food and beverage furnished from a salad bar, and heated food or beverage. See 32 V.S.A. § 9202(13) for the definition of “heated food or beverage.”

What Isn't A Taxable Meal?

- Self-serve bulk nonprepackaged grocery items such as fruits, vegetables, candy, flour, nuts, coffee beans
- Grocery-type items furnished for take-out such as whole pies or cakes, loaves of bread, single serving bakery items sold in quantities of three or more, delicatessen and nonprepackaged candy sold by weight or measure (except party platters), whole uncooked pizzas, pint or larger closed containers of ice cream or frozen confection, eight ounce or larger containers of salad dressing or sauces, maple syrup, and quart or larger containers of cider or milk.

Barter Transactions

Generally, a barter transaction is subject to meals tax. For more details, see Technical Bulletin 27, available on the Department’s website.

Charging the Meals Tax

The Department makes available meals tax charts showing the amount of tax to collect on the amount charged for the taxable meal. The charts can be downloaded from the Department’s website or can be ordered by fax at (802) 828-5787, or by calling (802) 828-2551.

Alcoholic beverages are taxed at a different rate than meals.

Collecting the Tax on a Package Sale

Sellers may include a taxable meal along with other items for one price. The seller has the following options:

- Apply the meals tax to the entire package price.
- Separately list the items on the customer's bill and collect the applicable tax on each item.
- Sell the package as tax included and make a reasonable allocation for the taxes on the books.

Examples:

1. City Club charges \$50 for a "Night Out" package that includes a meal (no alcoholic beverages included), and a band for dancing. Since there is only one price charged for both the meal and the entertainment, the entire \$50 charge is subject to the meals tax.
2. Family Fitness offers a Sunday family package for \$35 that includes a barbecue and use of the fitness facilities. The bill shows a \$25 charge for the meal and a \$10 charge for use of the facilities. Family Fitness applies the meals tax to \$25 and the sales tax to \$10.
3. The Happy Hour Lounge charges \$100 for a New Year's Eve party package. The package includes a meal, a comedy show, a concert, and glasses of champagne at midnight. Happy Hour Lounge sells the package as "tax included," makes the allocation for each part of the package on its books, and applies the applicable taxes.

Unless separately stated to the customer, the meals tax applies to admission charges by a bar, café, cabaret, restaurant, or similar establishment. If separately stated, the admission charge is subject to the sales tax. "Minimum charges" are subject to the meals tax.

Separately Stating The Meals Tax

You are not required to separately state the tax on a customer's bill, but you must prominently place a notice in the restaurant stating whether the meal charge is "plus tax," "exclusive of tax," or "tax included." If requested, however, you must provide your customer with a written invoice separately showing the charges for the meal and the meals tax. You may not, directly or indirectly, indicate that you will pay any or all of the meals tax for the customer, or refund to the customer any or all of the tax.

Tips

Tips are supplemental to, not a part of, the salary or wages paid by the employer. Tips are not included in the taxable meal charge if:

- The tip is gratuitously and voluntarily left by the customer for services; OR
- If the seller adds a tip on the bill, the tip is separately stated on the customer's bill, does not exceed 15% of the charge, and is distributed only to the service employees in addition to their normal salary or wages.



If the tip on the customer's bill is more than 15%, then the amount over 15% becomes part of the taxable meal charge.

Example:

For parties of ten or more, Good Eats Restaurant adds a 20% tip to the customer's bill. The customer's bill shows \$200 for the meals and \$40 for the 20% tip. The allowable 15% tip is \$30. The \$10 becomes a meal charge and Good Eats must collect an additional 90 cents meals tax on the \$10 (\$10 X 9%).

Any tip will become taxable if the tip is used to pay salary or wages, is not supplemental to the salary or wage, or is not distributed to the service employees.

Gift Certificates or Meal Vouchers

Gift certificates and vouchers are treated like cash. No meals tax is collected at the time of the purchase of the certificate or voucher. When presented to the restaurant, the customer receives credit against the total cost of the meal and pays the difference, if any. The restaurant collects the meals tax on the total amount of the meal; **not** the amount due after the certificate or voucher is deducted.

Coupons

If you honor a coupon at your restaurant and receive reimbursement from the coupon issuer in the amount of the discount, the meals tax is due on the full cost. In essence, the full purchase price is paid by the coupon issuer and the customer.

Example:

National Burger issues coupons for a \$1 off a \$4 burger meal. You operate a National Burger franchise and honor the coupons when customers bring them in. You then send in the coupons to National Burger and they send you \$1 for each coupon. The tax is collected on \$4.



If you honor a coupon at your restaurant and are not reimbursed by the coupon issuer, then the meals tax is on the final cost to the customer.

Example:

National Burger issues the coupons towards a \$4 burger meal but the company does not reimburse the franchisees for the price reduction. When customers bring in the coupon, you take \$1 off the meal charge. The meals tax is due on the \$3 reduced price.

If your restaurant offers a special or reduced price to customers bringing in a coupon, the meals tax is due on the final cost to the customer. You are selling at a reduced cost and receive no reimbursement for the difference.

Example:

You put a coupon in the newspaper that entitles those customers presenting the coupon to a 20% discount on your \$10 blue plate special. The meals tax is due on \$8, the final cost to the customer.

Meals not subject to the meals tax

Food or beverages:

- served or furnished on the premises of a nonprofit corporation or association organized and operated exclusively for religious or charitable purposes, in furtherance of any of the purposes for which it was organized, with the net proceeds of the sales used exclusively for the purposes of the corporation or association.
- served or furnished on the premises of a school, as defined by 32 V.S.A. § 9202(9).
- served or furnished on the premises of any institution of the State of Vermont and its political subdivisions to the inmates and employees of the institution.
- served or furnished on the premises of any institution of the United States to the inmates and employees of the institution.
- served or furnished on the premises of a continuing care retirement community certified under chapter 151 of Title 8 of the Vermont statutes.
- prepared by the employees and served in any hospital licensed under chapter 43 of Title 18 of the Vermont statutes, or a sanitarium, convalescent home, nursing home or home for the aged.
- furnished by any person while transporting passengers for hire by train, bus or airplane if furnished on any train, bus or airplane.
- furnished by any person operating a summer camp and providing food for children at the camp.
- sold by nonprofit organizations at bazaars, fairs, picnics, church suppers, or similar events to the extent of four such one-day events held during any calendar year.

If the nonprofit organization is required to have a license because it sells meals more than 4 days a year, then all meals sold by the nonprofit organization, even if at a bazaar, fair, or similar event are taxable.

Food and beverages are exempt when sold to:

- Non-profit medical and hospital insurance organizations
- American Red Cross
- Credit unions
- State of Vermont

Meals sold to non-Vermont state governments are taxable.

Meals must be sold to and paid for directly by the State of Vermont. Purchases by a Vermont government employee are taxable even if the State government reimburses the employee for the purchase through an expense account claim. Credit card purchases by Vermont government employees are exempt only if the government agency pays the credit card bill directly.

Generally, purchases of meals paid for by a credit card with both the State of Vermont and employee's name are taxable. Check with the specific state agency if you are not sure.

Federal government:

Meals must be sold to and paid for directly by the Federal government. Purchases by a Federal government employee are taxable even if the Federal government reimburses the employee for the purchase through an expense account claim. Credit card purchases by Federal government employees are exempt only if the government agency pays the credit card bill directly.

See <http://www.taxadmin.org/fta/rate/b-1598.html> for more information on the Federal credit cards to determine if the purchase is exempt. Check with the specific Federal agency if you are not sure.

Food and beverages are exempt when purchased for resale.

Example:

Good People Club has a restaurant on its premises. For a special theme dinner, they decide to buy the meals from a caterer. Good People Club buys the meals from the caterer tax-exempt as a sale for resale, and collects the meals tax from its customers.

Documenting Exempt Sales

You need to keep sufficient documentation in your records to support the exemption. Documentation should include a copy of the invoice or bill, a copy of any exemption documents (such as a foreign diplomat card, evidence of direct government payment, etc.), and any other documents to show why you did not collect the meals tax.

Other than indicated above, there are no provisions in the meals tax law to exempt sales of food and beverages to or by nonprofit organizations.

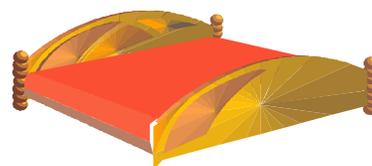
Keep the documentation as part of your records along with the return information for the period in which you report the exemption.

Personal Liability for the Tax

Liability for meals tax falls not only on the business required to collect the tax, but also on any officer or agent of the business who is responsible for collecting and remitting the tax for the business. The Department of Taxes can hold such individual personally liable for any tax that is not timely reported and remitted by the business.

ROOMS TAX

is a tax on the receipts received for the right to occupy any room in a hotel.



What Is a Hotel?

Vermont law provides a broad definition of what constitutes a hotel for purposes of the rooms tax. A hotel is an establishment that holds itself out to the public by offering sleeping accommodations for a charge. The definition includes not only what are commonly thought of as hotels, but also inns, motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes, rooming houses, furnished-room houses, boarding houses, private clubs, bed and breakfasts, and rentals of condominiums, rooms or houses. If you rent accommodations for 15 days or more in a calendar year - even if the property is your own home, and even if the occupant uses the accommodations for something other than sleeping (for example, as a temporary office space) - your property qualifies as a hotel.

SPECIAL NOTE: If you rent your property a total of 15 days or more in a calendar year, you are a hotel for purposes of the rooms tax. You need to obtain a Vermont rooms license and collect the tax.

Example: Renting your lake cabin for five weeks in the summer or renting your mountainside condominium six weeks in the fall & four weeks in ski season.



Taxable Room Charges

Any charge by a hotel that gives a person the right to use rooms, furnishings or services of the hotel is subject to the rooms tax, as long as the establishment meets the definition of "hotel" under Vermont law. The tax applies whether or not the room contains sleeping accommodations, and even if the person did not exercise the right to use or occupy the property.

Examples:

- Best Conference rents a room to a salesperson to display sales samples. The salesperson uses the room only during the day and does not stay overnight. The charge for the room is subject to the rooms tax. The rental entitled the salesperson to the use of the room even though the room was not used for sleeping accommodation.
- Best Conference rents out a conference room for a training seminar. The charge for the room is subject to the rooms tax. The rental provided use of a room in the hotel even though the room was not used for sleeping accommodation.
- Tammy Beech owns a cottage on the lake. She rents the cottage out during the months of June and August to help pay for the expenses of the cottage. Renting more than 15 days in a calendar year means the cottage meets the definition of a hotel. Tammy must collect the rooms tax on the rentals.

Separately Stating the Rooms Tax

You need not separately state the rooms tax, however, you must prominently place a notice in the hotel whether the room charge is “plus tax,” “exclusive of tax,” or “tax included.” If requested, you must provide your customer with a written invoice separately showing the charges for the room and the charge for the tax. You may not, directly or indirectly, indicate that you will pay the rooms tax for the customer, refund the rooms tax to the customer, or that rooms tax is not a part of the entire rental cost.

Forfeited Deposits

The law imposes the rooms tax on the right to use the hotel's rooms or facilities. Deposits preserve the customer's right to the use, even if the customer ultimately opts not to exercise the right. Forfeited deposits are subject to the rooms tax.

Examples:

- Mogul Ski Lodge requires a non-refundable 10% deposit to reserve rooms during the peak season. Dagwood Skibumstead reserves a room and pays the \$50 deposit. The deposit guarantees Dagwood the right to use a room. Dagwood cancelled his reservation and forfeited the deposit. The forfeited deposit is part of the lodge's room rental receipts and subject to rooms tax. Note that the full \$50 is not taxable; the amount of Dagwood's deposit must be allocated between rooms receipts and tax. For 9% rooms tax, Mogul Ski Lodge reports \$45.87 in rooms receipts and tax of \$4.13 ($\$4.13 = 9\%$ of $\$45.87$).
- Get Smart, Inc. reserved the conference room at Best Place for training and paid the required \$500 deposit. Get Smart had to cancel the training. Because Get Smart cancelled one week before the scheduled date, Best Place refunded half the deposit. The \$250 forfeited deposit is part of the lodge's room rental receipts and subject to the rooms tax. For 9% rooms tax, Best Place reports \$229.36 in rooms receipts and tax of \$20.64.

Tips

Tips are supplemental to, not a part of, the salary or wages paid by the employer. Tips are not included in the taxable room charge if:

- The tip is gratuitously and voluntarily left by the customer for services; OR
- If the seller adds a tip on the bill, the tip is separately stated on the customer's bill, does not exceed 15% of the charge, and is distributed only to the service employees in addition to their normal salary or wages.



If the tip on the customer's bill is more than 15%, then the amount over 15% becomes part of the taxable room charge.

Example:

Best Conference rents out meeting rooms and adds a 20% tip to the customer's bill. The customer's bill shows \$500 for the rooms and \$100 for the 20% tip. The allowable 15% tip is \$75. The additional \$25 collected by Best Conference becomes a room charge and Best Conference must collect rooms tax on the \$25.

Any tip becomes taxable when used to pay salary or wages, is not supplemental to the salary or wage, or is not distributed to the service employees.

Gift Certificates or Vouchers

Gift certificates and vouchers are treated like cash. No rooms tax is collected at the time of purchase of the certificate or voucher. When presented to the hotel, the customer receives credit against the total cost of the room and pays the difference, if any. The hotel collects the rooms tax on the total amount of the room charge; **not** the amount due after the certificate or voucher is deducted.

Coupons

If you honor a coupon at your hotel and receive reimbursement from the coupon issuer in the amount of the discount, the rooms tax is due on the full cost. The full purchase price is paid by the coupon issuer and the customer.



Example:

Sleepy Time Hotel home office issues stay-two-nights-get-a-third-free coupons. You operate a Sleepy Time Hotel franchise and honor the coupons. When a customer redeems a coupon, you send it to Sleepy Time Hotel and they reimburse you for the extra night's room rental. You must collect tax on the three nights' room rental, even though the customer is only paying for two. The full sales price – the charge for three nights – is the same as without the coupon, but is paid by the customer and Sleepy Time Hotel's main office.

If you honor a coupon at your hotel and are not reimbursed by the coupon issuer, then the rooms tax is on the final cost to the customer.

Example:

You advertise a weekend deal where customers who stay Friday night get to stay Saturday night at half price if they clip the coupon out of the newspaper. You receive no reimbursement for the discounted room. The tax is collected

on the actual rental charge you receive, not on what the charge would have been without the coupon.

Non-Taxable Rooms Charge

1. Rentals for less than a total of 15 days a calendar year.

Example:

Sue Skier owns a condo at Downhill Ski Resort. She rents it once a year to a neighbor for two weeks and at no other time during the year. Because the total amount of time rented in the calendar year is less than 15 days, the rent is not subject to the rooms tax. **Note:** If Sue uses a real estate broker or rental agency to rent the condo for her, the rental charge is subject to the rooms tax even if the condo is rented less than 15 days a year.

2. Rentals by a “permanent resident”. The renter of a hotel room for more than 30 consecutive days becomes a “permanent resident” of the hotel after the 30th day, and charges for his or her continual and uninterrupted occupancy from the 31st day forward are not subject to the tax. The occupancy does not have to be for the same room, but must be in the same hotel.

Example:

Martha Seaward is having her house redecorated. During the redecoration, she rents a room at Fine Rooms. The redecoration takes two months. For the first ten days Martha stays in a suite on the third floor but moves to the fifth floor where it is quieter for her remaining stay. The first 30 days of the rental are subject to the rooms tax. The remaining rental is not subject to the tax.

3. Lease of room for more than 30 days. A lease is a type of contract that establishes a landlord/tenant relationship between the parties. If a renter has the right to occupy a room for more than 30 days pursuant to a pre-existing lease, the entire rental is exempt.

Examples:

- Wings R Us Airlines has a one-year lease with Stop Over Inns to provide rooms for its pilots and staff. The inn is to provide a room to the staff but the lease does not rent specific rooms. The price is the same whether the staff stays in the room or not. Wings R Us has a lease with the inn for more than 30 days. The entire lease charge is exempt from rooms tax.
- Jim is in Vermont for business for eight weeks and checks into Homelike Suites, an extended stay hotel. Jim indicates at check-in that he will occupy a suite for the full eight weeks because Homelike offers a discounted price for customers who agree to, and actually stay, 45 days or more. Should customers shorten their lengths of stay to less than 45 days, they agree that they will be charged a higher daily rate, plus a \$5 per day penalty. Whether or not Jim agrees to stay, and actually stays, the full eight weeks, the charge for the first 30 days is subject to the rooms tax. Jim becomes a permanent resident on day 31. See # 2, above. In this example, Jim is not subject to a pre-existing lease and is considered a lodger, rather than a tenant; accordingly, the first 30 days of his stay is not exempt from rooms tax.

4. Rental of space not in a hotel.

Example:

Beverly Crafter rents space at the local mall during the Fall to set up a booth to sell her handmade crafts. This space rental is not in a hotel and is not subject to rooms tax.

Establishments Not Considered Hotels

The following establishments are not considered hotels and therefore are not required to collect the rooms tax:

- Hospitals, sanatoriums, convalescent homes, nursing homes, continuing care retirement communities certified under chapter 151 of Title 8, or homes for the aged.
- Facilities operated by any Vermont or Federal agency or institution, except the Vermont Department of Forests, Parks and Recreation.
- Dormitories, living quarters or household accommodations provided by a summer camp to children attending the camp, or by a school as that term is defined by 32 V.S.A. § 9202(9) to students attending the school, or by an employer to an employee when granted as remuneration for employment.
- Hotels operated by a nonprofit corporation or association organized and operated exclusively for religious, charitable or educational purposes, when the operation is in furtherance of any of the purposes for which it was organized.

The charge for a dormitory room rented out by a school to persons other than students is taxable.

Rooms charges may also be exempt under the following conditions:

- Rented to the State of Vermont

Rooms must be rented to and paid for directly by the State of Vermont. Room rentals by a Vermont government employee are taxable even if the State reimburses the employee through an expense account claim. Credit card purchases by Vermont government employees are exempt only if the government agency pays the credit card bill directly.

Rentals to non-Vermont state governments are generally taxable.

Generally, room rentals charged to a credit card with both the State of Vermont and employee's name are taxable. Check with the specific state agency if you are not sure.

➤ **Rented to the Federal government**

Rooms must be rented to and paid directly by the Federal government. Room rentals by a Federal government employee are taxable even if the Federal government reimburses the employee through an expense account claim. Credit card purchases by Federal government employees are exempt only if the government agency pays the credit card bill directly.

See <http://www.taxadmin.org/fta/rate/b-1598.html> for more information on the Federal credit cards to determine if the purchase is exempt. Check with the specific Federal agency if you are not sure.

- Rented to a foreign diplomat who provides an exemption card issued by the U.S. Department of State
- Rented to and paid directly by the American Red Cross
- Rented to and paid directly by non-profit medical and hospital insurance organization
- Rented to and paid directly by credit unions

Rooms rented by hotels to 501(c)(3) organizations, school groups, athletic teams, religious organizations, senior citizen groups, or other non-profit organizations are generally subject to the rooms tax.

Barter Transactions

Generally, a barter transaction is subject to rooms tax. For more information, see Technical Bulletin 27, available on the Department's website.

Documenting Exempt Sales

Documentation should include a copy of the invoice or bill, a copy of any exemption documents (such as foreign diplomat card), evidence of direct government payment, and any other documents to show why you did not collect the rooms tax.

Keep the documentation in your records attached to or with the return information for the period reporting the exemption.

Collecting the Rooms Tax

Rooms tax charts showing the amount of tax to collect are available on the Department's website or you can order a supply by fax at (802) 828-5787 or by calling (802) 828-2551.

If you receive payment in a foreign currency, ***you must convert the foreign currency*** into U.S. dollars at the current exchange rate and collect the tax based on that amount.

The rooms tax is on the full amount of the charge for the right to occupy the room. If another charge is included in the room price but is not separately stated, the entire cost is subject to the rooms tax.

Personal Liability for the Tax

Liability for rooms tax falls not only on the business required to collect the tax, but also on any officer or agent of the business who is responsible for collecting and remitting the tax for the business. The Department of Taxes can hold such individual personally liable for any tax that is not timely reported and remitted by the business.

Package Pricing

A package price may include the charge for the room and other items such as entertainment, ski passes, meal vouchers, etc. If the charge for the meal, entertainment, ski pass, or other item is separately stated on the customer's bill, the customer must be shown the applicable tax for each separately stated taxable item.

The package may also be sold as "tax included." A statement on the invoice ***must*** indicate that the charge includes the applicable meals and rooms tax and sales tax. The seller must reasonably allocate the charges on its books between the items subject to meals and rooms tax and the sales tax, and use those allocations when reporting its sales or receipts and the tax due on the applicable tax return.

INCOME TAX WITHHOLDING

is the deduction of Vermont income tax from wages or payments.



Do I Need To Register For A Vermont Business Tax Account?

YES, you must register if you make payments to employees who work in Vermont (whether or not they live in Vermont), and are required to withhold Federal income tax from these payments. This requirement also applies to payments other than wages that are subject to Vermont income tax and which require Federal withholding.

Exempt Organizations

An organization exempt from Vermont taxes needs to obtain a Vermont Business Tax Account for income tax withholding if it pays wages and compensation to individuals it employs. The individuals are not exempt and must report the income and pay tax.

Operating More Than One Location

An employer may report withholding for all locations on one account. However, an employer may also elect to have a Business Tax Account for each location.

Payments Subject To Vermont Income Tax Withholding

Any payment subject to Federal income tax withholding is subject to Vermont income tax withholding. Examples of payments include wages and some pensions, annuities, interest, dividends, and gambling winnings. Wages or other compensation become subject to Vermont income tax if earned in Vermont.

Payments Exempt From Vermont Income Tax Withholding

Because Vermont's income tax is based on Federal taxable income, payments exempt from Federal withholding are generally exempt from Vermont withholding.

Vermont also follows Federal rules for determining whether a worker is an employee or an independent contractor.

Non-Vermont Resident Employees

If your employees work in Vermont and your business has nexus with Vermont, you must withhold Vermont income tax from non-Vermont resident employees' compensation earned in Vermont.

Examples:

- A Vermont company hires employees who are residents of New York and Massachusetts to work in the Vermont location. The company withholds Vermont income tax on all wages paid to these non-residents.
- A New York company with an office in Vermont assigns a New York resident to work in Vermont temporarily. The company withholds Vermont income tax on wages paid for services performed in Vermont.

Withholding if Business Is Not Located In Vermont

An out-of-state company with no nexus with Vermont that hires Vermont residents to work at the company's non-Vermont location may, *as a convenience for the Vermont employees*, register for a Vermont withholding account and withhold Vermont income tax on Vermont residents' wages.

Example:

A New Hampshire company located in New Hampshire has no Vermont offices and conducts no business that gives nexus to Vermont. The company hires Vermont employees to work in the New Hampshire offices. The company may, as a convenience to the Vermont employees, register and withhold Vermont income tax.

Withholding For Employee Working In More Than One State

If an employee of a business with nexus with Vermont works in Vermont and one or more other states, the employer needs to site the compensation to the state in which it was earned and follow the withholding requirements for each state.

Examples:

- A Vermont company doing business in Massachusetts hires a Vermont resident to work in both Vermont and Massachusetts. The company withholds Vermont income tax on all wages paid to the Vermont resident for services performed in Vermont. The company withholds Massachusetts income tax on wages for services performed in that state.
- A Vermont company doing business in New Hampshire hires a Vermont resident to work in both Vermont and New Hampshire. Because the employee is a Vermont resident and New Hampshire does not have an income tax, the company withholds Vermont income tax on all wages paid to the Vermont resident regardless of where the services are performed.

Amount of Income Tax To Withhold

The Vermont Withholding Booklet provides withholding charts and other useful information. It is available at the business section of our website, www.state.vt.us/tax, or by calling (802) 828-2551.

Vermont W-4

Vermont has its own form, Form W-4VT. The Vermont W-4VT allows different options than the Federal W-4. Form W-4VT allows you to:

- Adjust for additional Vermont withholding for Federal tax credits that do not pass through to Vermont.
- Have a Vermont filing status different from your Federal status, for example:
 - a spouse works in Vermont but the couple lives out of state. The couple can file married filing separately in Vermont even though they file married filing jointly at the Federal level.
 - civil union partners are recognized in Vermont.

The Vermont W-4VT and related Technical Bulletin 23 are available on our website www.state.vt.us/tax, or by calling (802) 828-2515.

Filing Frequency

The Department determines your filing frequency (how often you report and pay the taxes) based on the amount of your tax obligation. The Department reviews its records annually and may change your filing frequency. You will receive at least 30 days notification of any change. You can request, in writing, a different filing frequency, but any change will not take effect until the beginning of a quarter (January, April, July, or October). Do not change your filing frequency until you receive written notification from the Department.

The due dates for returns are:

<u>Semi-Weekly</u>	\$9,000 or more quarterly Due the following Wednesday for Wednesday, Thursday or Friday payrolls Due the following Friday for Saturday, Sunday, Monday or Tuesday payrolls
<u>Monthly</u>	\$2,500 to \$8,999 quarterly Due the 25 th of the following month (except Jan: due Feb 23)
<u>Quarterly</u>	Under \$2,500 annually Due the 25 th of the month following the end of the quarter

Employers on all filing frequencies file an annual return to reconcile the amount of withholding paid to the Department and the amount of withholding shown on their W-2 and 1099 statements. The reconciliation is due February 28. This return is also used to transmit the employers' W-2, 1099 or other payment statements.

Employers reporting on a semi-weekly schedule also file a quarterly return to reconcile their semi-weekly remittances and the withholding tax on the employers' books.

A tax return must be filed as scheduled even if no tax is due for that reporting period.

Filing Returns And Paying Tax

Semi-weekly employers (those with \$9,000 or more withholding per quarter) must use electronic funds transfer (EFT). EFT accepts payment and files the return at the same time. The Department offers EFT as ACH credit or ACH debit method. More information is available on our website at www.state.vt.us/tax in the E-Services section or by calling (802) 828-2551. Any employer may elect to use EFT to file and remit withholding tax.

**ELECTRONIC
FILING**

VTBizFile offers a fast, easy online way to file and pay your sales & use, meals & rooms and withholding taxes. There is no charge for filing. Payment options include ACH debit (free) and credit card (Convenience fee on credit card payments over \$200).

For paper returns, the Department sends you a year's supply of returns preprinted with your name, address, business tax account number, the reporting period, and the due date. It takes approximately 45 days to issue the booklet. If the application is submitted close to your opening date, you will receive one or two returns to cover the time between your opening and receipt of the booklet.

CORPORATION AND BUSINESS ENTITY TAXES



Corporations or Business Entities Required To Have a Vermont Business Tax Account

Any corporation or entity doing business in Vermont, incorporated under the laws of Vermont, possessing a certificate of authority to do business in Vermont, or receiving income allocable or apportionable to Vermont must submit an application for a Vermont Business Tax Account.

C-Corporations

A corporation is any entity taxed as a C -Corporation under the Internal Revenue Code 501(c).

C-Corporation Tax

C-Corporations pay tax to Vermont based on income. Vermont uses the Federal taxable income as the tax base. The base is adjusted by adding back interest on non-Vermont state and local obligations, state and local tax deductions on the Federal return, and then subtracting U.S. government interest, IRC Section 78 "gross up" of foreign dividends, and wage expense disallowed by IRC Section 280C(a).

Corporations also doing business outside of Vermont use a three-factor formula for income or sales, wages, and property located in this state to determine the amount taxable in Vermont. The formula double-weights the sales factor. Non-business income may be allocated to the source location rather than apportioned. Note: VT does **not allow** the bonus depreciation provisions at the Federal level for purposes of calculating the VT corporate income tax.

Corporations with an anticipated Vermont tax liability of \$500 or more are required to make quarterly estimated payments.

Effective for tax years beginning January 1, 2006, corporations report to Vermont using the unitary method.

Minimum Tax on C-Corporations

There is a \$250 minimum tax.

Exceptions from the Minimum Tax on C-Corporations

There are 2 exceptions:

- Small Farm Corporations - Minimum tax is \$75. See 32 V.S.A. § 5832(2)(A) for the definition of this type of corporation.
- Inactive Corporations - No minimum tax is due. An inactive corporation is a non-Vermont corporation with no taxable activity or investments in this state, or a Vermont corporation with no receipts or expenses other than minimal start-up or closeout expenses.

Holding Companies

With the adoption of the unitary reporting method, the separate tax provision for a holding company is repealed effective for taxable years beginning January 1, 2006 and after. The holding company's income is now reported with the parent corporation.

Business Entities

A business entity is one of the following organizations:

- S-Corporation
- Partnership (all types)
- Limited liability company

A Business Entity is a pass-through organization in that the income from the entity is passed through to the members, partners or shareholders for tax purposes.

Business Entity Tax

A business entity pays an annual entity tax of \$250. This tax is not based on the business entity's income.

How Do the Members, Partners or Shareholders Pay Vermont Income Tax on Vermont Business Entity Income?

If the member, partner or shareholder is a Vermont resident, he or she files a Vermont income tax return that includes the entity income. For non-resident members, partners or shareholders, the business entity is required to make estimated Vermont income tax payments on their behalf for any Vermont income. The individuals claim credit for the estimates made on their behalf when filing Vermont income tax returns. See Technical Bulletins 5 and 6.

Generally, all Non-Resident Members, Partners or Share-holders are Required to File a Vermont Income Tax Return.

Composite Return

Composite returns can be filed after receiving prior approval of the Commissioner of Taxes. Criteria are:

- no single member, partner or shareholder income exceeds \$150,000, and
- only natural persons can file (a real person, not corporation, partnership, LLC, or other business organization).

The composite return tax rate is 8.5%.

Unless a composite return is filed by the entity, each non-resident member, partner or shareholder must file a Vermont income tax return. For more information on Business Entities, see Technical Bulletin 5, available on the Department's website.

AUDITS



What is an Audit?

An audit is an examination of your books and records to determine whether taxes are being correctly reported. An audit may be either a desk audit conducted by mail or by telephone with an auditor in the Montpelier office, or a field audit where the auditor comes to your place of business. You will be notified prior to any field audit visit so a convenient time can be arranged for examination of your books and records.



Why Me?

If you are in business for any length of time, you can expect to be contacted by an auditor from the Vermont Department of Taxes. The fact that a business is being audited does not mean you are suspected of errors or tax evasion.

Records Needed

You need to maintain the regular bookkeeping accounts that are normally kept by a business. In addition, you should keep any other documents used to record your operations. If you are audited, you will need to be able to produce records to support any information that appears on your tax returns. If you did not file a return, you must be able to support your claim of exemption. The failure to keep adequate records could result in an assessment of tax based on the best information available to the auditor.

If you are unsure how to establish a record keeping system for your business, you should seek advice from an accountant. The University of Vermont Extension Service and U.S. Small Business Administration may also offer assistance in setting up a record keeping system. The documents most frequently reviewed during an audit are:

- Sales journals, cash receipts journals and detailed backup
- Purchase or accounts payable journals
- Cash disbursement journals
- Payroll registers
- Payroll forms such as W-2, 1099, Form 941, VT returns
- General ledgers
- Journal entries
- Sales invoices, purchase invoices, purchase orders and similar records
- Cash register tapes
- Deposit schedule and detail backup
- Bank statements
- Lease agreements and contracts
- All schedules and working papers used in connection with the preparation of tax returns

Other records may be requested as necessary to support your reporting.

Record Retention Period

The Department recommends that you keep Vermont tax records for a minimum of 7 years. It is prudent to retain some records for a longer period. For example, you should retain records relating to the basis of property for 7 years after you dispose of the property.

Additional Tax Assessment

If the Department determines you have paid less than the proper amount of tax, you will be billed for the additional tax together with applicable interest and penalties. Generally, the Department assesses tax for up to 3 years. If you have not filed returns or the returns filed are fraudulent, the Department can review and assess all periods where a tax liability may have existed. For underreporting the tax due by 20% or more, the Department can assess additional tax for up to 6 years for certain types of tax.

Appeal Rights To An Audit Assessment

You have the right to appeal the assessment. You must send a written notice of appeal to the Commissioner of Taxes within 60 days of the assessment notice. If you do not appeal within the 60 days, you cannot challenge the Department's action at a later date. Most appeal issues are resolved during an informal conference with the audit division. If all issues are not resolved at this level, a formal hearing will be scheduled.

You will receive notification of the hearing date and information on how the appeal hearing is conducted. A hearing officer designated by the Commissioner of Taxes hears timely filed appeals. If the appeal is not decided in your favor, you can appeal the determination to the Vermont Superior Court. This court's order can be appealed to the Vermont Supreme Court. Appeals at the court level are based on the record established at the hearing. You cannot introduce information to the court that was not presented at the Department hearing.

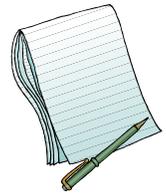
Are Tax Assessments Subject to Civil or Criminal Laws?

Tax assessments always carry interest and penalties for non-filing, late filing, late payment, or underreporting. However, there are also criminal penalties for violation of tax laws. A person may be charged with a misdemeanor or felony for the following activity:

- failure to file returns
- failure to pay taxes
- failure to keep required records
- filing fraudulent returns
- operating a business without the appropriate valid license

FORMAL RULINGS

If you are unsure how the Vermont tax laws apply to your particular situation, you may request a Formal Ruling from the Commissioner of Taxes. The request must be in writing and describe the facts as completely as possible. The omission of an important fact can change the tax consequences of the transaction. No Formal Rulings will be issued if the request concerns an issue under audit or appeal, or the request is for an anonymous taxpayer. Formal Ruling requests may be faxed to (802) 828-2701 or mailed to:



Vermont Department of Taxes
P O Box 429
Montpelier, VT 05601-0429



NEED MORE INFORMATION??

A copy of the Vermont tax law is available at your local library. Most taxes administered by the Vermont Department of Taxes can be found in Title 32 of Vermont Statutes Annotated. You can also access Vermont Statutes Annotated on the web at www.state.vt.us/tax.

Use the Department's website at www.state.vt.us/tax to look up tax regulations, technical bulletins, formal rulings, highlights of tax law changes, and Department press releases.

If you have questions about completing any applications or forms, you may direct your questions to a Tax Examiner at:

Business Taxes

E-Mail bustax@state.vt.us
Phone (802) 828-2551
Fax (802) 828-5787

Corporate & Business Entity Income Taxes

E-Mail tax-corpincome@state.vt.us
Phone (802) 828-5723
Fax (802) 828-2720

For questions on other Vermont taxes or issues, contact:

Audit or Compliance

E-Mail tax-compliance@state.vt.us
Phone (802) 828-2821
Fax (802) 828-5282

Income Tax

Phone (802) 828-2865 (for local and out-of-state)
1-866-828-2865 (toll-free in VT)
Fax (802) 828-2720

HELP FROM OTHER GOVERNMENT AGENCIES

Internal Revenue Service

Federal tax information line:

1-800-829-1040

Federal Employer ID Number:

978-474-9717

Web: www.irs.gov

- Federal ID Number as employer or for corporation, partnership or LLC
- Employer income tax withholding account
- Information on who is an employee for income tax withholding

VT Secretary of State

109 State Street

Montpelier, VT 05609-1104

Tel: (802) 828-2386

Web: www.sec.state.vt.us

- Register trade name
- File articles of association for corporations, partnerships, LLCs
- Receive authority to do business in VT (for non-VT businesses)
- Professional licensing

VT Dept of Labor

1 National Life Drive, Drawer 20

Montpelier, VT 05620-3401

Tel: (802) 828-4000

Web: www.labor.vermont.gov

- Registration for unemployment tax
- Information on who is an employee for unemployment tax purposes
- Minimum wage
- Occupational safety
- Professional licensing

VT Dept of Agriculture

116 State Street, Drawer 20

Montpelier, VT 05620-2901

Tel: (802) 828-9873

Web: www.state.vt.us/agric

- Regulation of agricultural product retail sales (meats, eggs, cream, butter, oleo, etc.)
- Inspection of scales, weights & measures

VT Department of Health

108 Cherry Street, P.O. Box 70, Burlington, VT 05402-0070

Tel: 802-863-7200

800-464-4343 (in-state only)

Web:

<http://www.healthyvermonters.info/hp/foodlodge/restaurant.shtml>

- State license to operate a restaurant or lodging establishment

VT Lottery Commission

(FOR IN-STATE BUSINESS ONLY)

1311 US Route 302-Berlin

Barre, VT 05641

Tel: 1-800-322-8800 (in-state only)

(802)-479-5686

Web: www.vtlottery.com

- Obtain license to sell Vermont lottery tickets

VT Dept of Liquor Control

Green Mountain Drive, Drawer 20

Montpelier, VT 05620-4501

Tel: (802) 828-2345

Web: www.state.vt.us/dlc

- Obtain license(s) to sell alcoholic beverages

For Additional Copies or More Information:
802.828.2551 or
bustax@state.vt.us

Please visit our website for
more business tax publications at
www.state.vt.us/tax