

## **Retail Sales and Use Tax Instructions For University of Virginia Departments and Units Engaged in Taxable Sales**

### **1. Overview and Applicability**

The Virginia Retail Sales and Use Tax Act applies broadly to the sale, lease or rental of **tangible personal property** in the Commonwealth of Virginia. See Va. Code §58.1-600 et seq.

However, sales tax does not apply when tangible personal property is delivered to a purchaser residing outside of Virginia for use or consumption outside of the Commonwealth. See Va. Code §58.1-609.10. Thus, sales tax does not apply to **internet sales** of tangible items for delivery to an out-of-state purchaser.

Sales tax generally **does not apply to services**, although there are certain **exceptions**:

- **Combined Property and Services**: Where service and tangible personal property are combined in a product, the Virginia Department of Taxation will apply the “true object” test and the end user will be taxed on the entire product. See 23 VAC §10-210-4040. For instance, where a University unit fabricates a tangible item for delivery to a purchaser, the “true object” is the sale and delivery of the end product, and thus the entire cost of the item, including any services involved in the fabrication, will be deemed subject to sales tax.
- **Lodging**: The provision of rooms, lodgings or accommodations furnished to transients by any hotel, motel, inn, tourist camp or cabin, camping grounds, club or any other similar place furnished for less than 90 continuous days. See 23 VAC §10-210-730.
- **Meals**: Any services in connection with the furnishing, preparing, or serving by a person for a consideration of meals. See 23 VAC §10-210-930.

The seller is responsible for collecting sales tax from the purchaser on each taxable sale. The tax **must be separately stated on the invoice** and added to the sales price. The general sales tax rate for Virginia is 5.3 percent (4.3 percent state tax and 1 percent local tax).

**Note on “use tax”**: Although the name of the Act implies two separate taxes, it is one tax levied by the Commonwealth on the end user of tangible personal property and taxable services. “Sales” and “Use” are merely separate means of collecting and remitting the tax. Use tax is remitted to the Commonwealth directly by the end user, while sales tax is collected from the end user at the time of sale and subsequently remitted to the Commonwealth by the seller. Regardless of the means of collection and remittance, the tax is added to the retail purchase price and is paid by the purchaser.

## 2. Exemptions

The general rule is that a seller must collect sales tax on any taxable sales unless an exemption applies. As such, the burden of proving that the tax does not apply to a particular sale rests with the University unless it receives from the purchaser **a certificate of exemption** indicating that the sale is exempt. See 23 VAC §10-210-280. The most common exemptions are the following:

- **Purchases for Resale**. A purchase of tangible personal property for resale is not considered a “retail sale” subject to the tax because the purchaser is not the end user. An organization that is regularly engaged in selling tangible personal property for resale must provide the University department or unit making the sale with a resale exemption certificate, **Form ST-10**. See Va. Code §58.1-603.
- **Sales to Governments**. Purchases of tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States are not subject to sales tax (but see the “Special Exemption Rules” below). The governmental purchaser must provide the University department or unit making the sale with a governmental exemption certificate, **Form ST-12**. See Va. Code §58.1-609.1.
- **Sales to Nonprofits**. Purchases of tangible personal property for use or consumption by any nonprofit entity that has been issued a **certificate of exemption from the Department of Taxation** are not subject to sales tax (but see the “Special Exemption Rules” below). Note that certificates of exemption are valid only for the period of time stated on the certificate; the nonprofit purchaser must provide the University department or unit making the sale with an exemption certificate that is valid on the date of the sale. See Va. Code § 58.1-609.11.
- **Special Exemption Rules for Meals and Lodging**.

Sales to Nonprofits and Virginia State Agencies: The sales tax exemptions available to nonprofits and Virginia governmental agencies **do not apply to sales of meals or lodging**. See 23 VAC §10-210-690 and 23 VAC §10-210-1071.

Sales to the Federal Government: Purchases of meals, lodging, and other accommodations, by the federal government or its employees traveling on government business **are exempt from the tax provided that payment** for the meals, lodging, or other accommodations **is made directly by the federal government** pursuant to an official purchase order (e.g., by direct billing to the government or by use of a government credit card). Only credit card purchases for which the credit of the federal government is bound and billings are sent directly to and paid by the government, are exempt from the tax. For example, I.M.P.A.C. cards which have been identified as a United States government credit card and which can be used only for making purchases

for official government purposes may be used to make exempt purchases, provided the credit card bill will be paid directly by the federal government. See 23 VAC §10-210-690.

Sales to Federal Employees: If a federal employee pays for meals or lodging with personal funds, a personal credit card or a credit card provided by the government, the bill for which is sent directly to the employee, and will be reimbursed by the government or utilizes a travel advance, **no exemption is available even though the employee may be traveling pursuant to official government orders** or the credit card used has the governmental agency's name embossed thereon. See 23 VAC §10-210-690.

### **3. Collection and Retention of Exemption Certificates**

The University must retain copies of purchasers' exemption certificates on file to substantiate that the sale was indeed tax exempt under the law. Exemption certificates are gathered and maintained at the departmental or unit level. For audit purposes, **the department or unit is required to keep and preserve for three years** adequate and complete records necessary to determine the amount of tax liability. See 23 VAC §10-210-470.

### **4. Monthly Calculation and Remittance**

The Accounting Services unit in the University Comptroller's Office receives sales tax from all University departments and units collecting sales tax from purchasers, and then remits (that is, forwards to the Virginia Department of Taxation) all sales tax paid in a single aggregated payment on behalf of the entire University. In turn, it is the responsibility of the department or unit collecting sales tax from purchasers to remit sales tax to the Comptroller's Office on a monthly basis using the ST-9A Worksheet. **ST-9A Worksheets should not be sent directly to the Virginia Department of Taxation.**

**Note:** The department or unit must report its sales tax due based on **sales revenues actually received and deposited** during the month being reported, **not on the sales billed** during that month. Stated another way, the department or unit should remit sales tax on a *cash* basis rather than on an *accrual* basis.

The department or unit collecting the tax **must send its ST-9A Worksheet to Accounting Services in the University Comptroller's Office** by the 10<sup>th</sup> day of the month following receipt of payment. The completed ST-9A Worksheet may be submitted either by fax to 434-243-8790, or in PDF format by email to [jws5z@virginia.edu](mailto:jws5z@virginia.edu).

Note that if a unit is engaged in taxable sales, it must submit an ST-9A Worksheet to Accounting Services **every month regardless of whether any taxable sales are made** in that particular month.

A copy of the ST-9A Worksheet and University-specific instructions for its completion can be found here: (see attached instructions). Note that the instructions for completion of the ST-9A Worksheet have been modified so that information necessary for remittance is provided to Accounting Services. For instance, the name in the heading should be the department or business unit rather than the University itself, and the account number in the heading should be the department or unit's GL string to be charged for the collected tax.

## **5. Applying Sales Tax to Invoices in the Integrated System (IS)**

Departments and units billing sales tax to purchasers can prepare invoices either manually or through the Integrated System's Accounts Receivable (AR) module. Remember that sales tax must be separately stated on invoices regardless of which method is used.

The IS AR Training Guide walks the user through the process of generating an invoice in the Integrated System. All users of the AR module should have received a copy of the Training Guide during the required IS training.

The AR module has a "Tax Classification" field on the invoicing screen. When a user selects that field, a drop-down menu will appear with a list of possible applicable tax rates. After the user selects the appropriate tax rate, the AR module will automatically calculate and apply the tax to the invoiced amount.

## **6. Questions and Assistance**

Questions regarding completing and submitting the ST-9A Worksheets should be directed to the University's State Accountant, June Ward Seay, in Accounting Services at 434-924-4207 or [jws5z@virginia.edu](mailto:jws5z@virginia.edu).

Questions about calculating tax using the AR module should be directed to the Accounts Receivable unit in the Comptroller's Office at: [UVA-AR@virginia.edu](mailto:UVA-AR@virginia.edu).

Questions about whether sales tax should be collected on particular transactions and on tax compliance generally should be directed to the University's Director of Tax Compliance, William Define, at 434-243-5592 or [wgd4c@virginia.edu](mailto:wgd4c@virginia.edu).