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SALES TAX

Extends sales tax to consumer services, soft drinks, bottled water

Exempts healthcare and educational services

Sec. 1. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(12)(A) “Casual sale” means an isolated or occasional sale of an item of tangible personal property or a service by a person who is not regularly engaged in the business of making sales of that general type of property or service at retail where the property was obtained by the person making the sale, through purchase or otherwise, for his or her own use.

* * *

(13) “Use” means the exercise of any right or power over tangible personal property by the purchaser thereof and includes the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation, any affixation to real or personal property, or any consumption of that property. “Use” also means deriving a benefit, either directly or indirectly, of any service paid for by the consumer.

* * *

1 predominantly the performance of a service as distinguished from selling
2 property. In determining what is a service, the intended use, principal
3 objective, or ultimate objective of the contracting parties shall not be
4 controlling. For the purposes of this chapter, services rendered by an
5 employee for his or her employer are not taxable.

6 (55) “Bottled water” means water that is placed in a safety-sealed
7 container or package for human consumption. Bottled water is calorie free and
8 does not contain sweeteners or other additives except that it may contain:
9 (i) antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals,
10 and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors,
11 extracts, or essences derived from a spice or fruit. “Bottled water” includes
12 water that is delivered to the buyer in a reusable container that is not sold with
13 the water.

14 (56) “Health care services” means professional services that are
15 delivered by licensed health care professionals such as physicians, registered
16 nurses, and therapists, or by personal care aides under the supervision of health
17 care professionals, for the diagnosis, prevention, treatment, cure, or relief of a
18 health condition, illness, injury, or disease.

19 (57) “Educational services” means services provided by an “educational
20 institution” as the term is defined at 16 V.S.A. § 140a(1), or an employee,
21 contractor, or agent of an educational institution.

1 (58) “Soft drink” means nonalcoholic beverages that contain natural or
2 artificial sweeteners. “Soft drinks” do not include beverages that contain milk or
3 milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of
4 vegetable or fruit juice by volume.

5 Sec. 2. 32 V.S.A. § 9703(c) is amended to read:

6 (c) Such person shall have the same rights in collecting the tax from his or
7 her purchaser or regarding nonpayment of the tax by the purchaser as if the tax
8 were a part of the purchase price of the property, service, telecommunications
9 service or amusement charge, as the case may be, and payable at the same
10 time; provided, however, if the person required to collect the tax has failed to
11 remit any portion of the tax to the Commissioner, that the Commissioner shall
12 be notified of any action or proceeding brought by such person to collect the
13 tax and shall have the right to intervene in such action or proceeding.

14 Sec. 3. 32 V.S.A. § 9704 is amended to read:

15 § 9704. PRINCIPAL AND AGENT; JOINT AND SEVERAL LIABILITY

16 When in the opinion of the Commissioner it is necessary for the efficient
17 administration of this chapter to treat any salesman, representative, peddler, or
18 canvasser as the agent of the vendor, distributor, supervisor, or employer under
19 whom he or she operates or from whom he or she obtains tangible personal
20 property or services sold by him or her or for whom he or she solicits business,
21 the Commissioner may, in his or her discretion, treat such agent as the vendor

1 jointly and severally responsible with the principal, distributor, supervisor, or
2 employer for the collection and payment of the tax.

3 Sec. 4. 32 V.S.A. § 9707(b) is amended to read:

4 (b) No later than one business day prior to an event at which taxable sales
5 will be made by vendors who have no permanent place of business in the ~~state~~
6 State, the promoter of the event shall provide to the Commissioner a list of
7 vendors who are authorized by the promoter to sell taxable property or services
8 at the event and the vendors' current sales tax license numbers. No later than
9 one week after the event, the promoter shall notify the Department in writing
10 of any changes to the list of participating vendors and their sales tax license
11 numbers. In this subsection, "event" means a specific time and location at
12 which 25 or more vendors are authorized by the promoter to sell taxable items.

13 Sec. 5. 32 V.S.A. § 9741 is amended to read:

14 § 9741. SALES NOT COVERED

15 Retail sales and use of the following shall be exempt from the tax on retail
16 sales imposed under section 9771 of this title and the use tax imposed under
17 section 9773 of this title.

18 * * *

19 (13) Sales of ~~food, food stamps, purchases made with food stamps, food~~
20 ~~products and beverages, food and food ingredients~~ sold for human
21 consumption off the premises where sold, and sales of eligible foods that are

1 purchased with benefits under the Supplemental Nutrition Assistance Program
2 or any successor program, consistent with federal law.

3 * * *

4 (51) Health care and educational services.

5 Sec. 6. 32 V.S.A. § 9771 is amended to read:

6 § 9771. IMPOSITION OF SALES TAX

7 (a) Except as otherwise provided in this chapter, there is imposed a tax on
8 retail sales in this State. The tax shall be paid at the rate of ~~six percent~~
9 **XXX%** of the sales price charged for but in no case shall any one transaction
10 be taxed under more than one of the following:

11 * * *

12 (9) services sold to a consumer.

13 (b) For the purposes of subdivision (a)(9) of this section, the sale of a
14 service is considered to be in the State if the service was performed wholly in
15 the State, or the greater portion of the service was performed in the State based
16 on the proportion of the cost of performance of the service to the consumer.
17 Notwithstanding the foregoing, in determining whether a service took place
18 within the State, it is presumed that a service directly related to real property
19 takes place where the real property is located, and that a service represented by
20 tangible personal property takes place where the tangible personal property is
21 received by the purchaser.

1 Sec. 7. 32 V.S.A. § 9773 is amended to read:

2 § 9773. IMPOSITION OF COMPENSATING USE TAX

3 Unless property or telecommunications service has already been or will be
4 subject to the sales tax under this chapter, there is imposed on every person a
5 use tax at the rate of ~~six percent~~ **XXX%** for the use within this State, except
6 as otherwise exempted under this chapter:

7 (1) of any tangible personal property purchased at retail;

8 (2) of any tangible personal property manufactured, processed, or
9 assembled by the user, if items of the same kind of tangible personal property
10 are offered for sale by him or her in the regular course of business, but the
11 mere storage, keeping, retention, or withdrawal from storage of tangible
12 personal property or the use for demonstrational or instructional purposes of
13 tangible personal property by the person who manufactured, processed or
14 assembled such property shall not be deemed a taxable use by him or her; and
15 for purposes of this section only, the sale of electrical power generated by the
16 taxpayer shall not be considered a sale by him or her in the regular course of
17 business if at least 60 percent of the electrical power generated annually by the
18 taxpayer is used by the taxpayer in his or her trade or business;

19 (3) of any tangible personal property, however acquired, where not
20 acquired for purposes of resale, upon which any taxable services described in
21 subdivision 9771(3) of this title have been performed;

