

The Vermont Statutes Online

Title 32: Taxation and Finance

Chapter 233: SALES AND USE TAX

32 V.S.A. § 9741. Sales not covered

§ 9741. Sales not covered

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

(1) Sales not within the taxing power of this state under the Constitution of the United States.

(2) Drugs intended for human use, durable medical equipment, mobility enhancing equipment, and prosthetic devices and supplies, including blood, blood plasma, insulin, and medical oxygen, used in treatment intended to alleviate human suffering or to correct, in whole or in part, human physical disabilities; provided however, that toothbrushes, floss, and similar items of nominal value given by dentists and hygienists to patients during treatment are supplies used in treatment to alleviate human suffering or to correct, in whole or part, human physical disabilities and are exempt under this subdivision.

(3) Agriculture feeds, seed, 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 poult, agriculture chemicals other than pesticides, veterinary supplies, and bedding; and fertilizers and pesticides for use and consumption directly in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit and truck farms, orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale.

(4) Casual sales.

(5), (6) [Deleted.]

Subdivision (7) effective until July 1, 2013; see also subdivision (7) effective July 1, 2013 set out below.

(7) Sales of motor fuels taxed or exempted under 23 V.S.A. chapter 28, provided, however, that aviation jet fuel shall be taxed under this chapter with the proceeds to be allocated to the transportation fund in accordance with 19 V.S.A. § 11.

Subdivision (7) effective July 1, 2013; see also subdivision (7) effective until July 1, 2013 set out above.

(7) Sales of motor fuels taxed or exempted under 23 V.S.A. chapter 28; provided, however, that aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the transportation fund in accordance with 19 V.S.A. § 11.

(8) [Repealed.]

(9) Rents for rooms taxed under chapter 225 of this title and the transactions exempted therefrom.

(10) Sales of meals taxed or exempted under chapter 225 of this title.

(11) [Repealed.]

(12) Motor vehicle purchases and use taxed under chapter 219 of this title and the transactions exempted therefrom which are listed in section 8911 of this title. Provided however, that notwithstanding subdivision 8911(5), construction, earthmoving, logging and motorized equipment which has not been registered as a motor vehicle is subject to tax under this chapter; and further provided that power take off and other auxiliary equipment on motor vehicles, whether attached prior to or subsequent to registration is not exempt under this section.

(13) Sales of food, food stamps, purchases made with food stamps, food products and beverages sold for human consumption off the premises where sold.

(14) Tangible personal property which becomes an ingredient or component part of, or is consumed or destroyed or loses its identity in the manufacture of tangible personal property for sale; machinery and equipment for use or consumption directly and exclusively, except for isolated or occasional uses, in the manufacture of tangible personal property for sale, or in the manufacture of other machinery or equipment, parts, or supplies for use in the manufacturing process; and devices used to monitor manufacturing machinery and equipment or the product

during the manufacturing process. Machinery and equipment used in administrative, managerial, sales, or other nonproduction activities, or used prior to the first production operation or subsequent to the initial packaging of a product, shall not be exempt from tax, unless such uses are merely isolated or occasional or unless the machinery used for initial packaging is also used for secondary packaging as part of an integrated process. Machinery and equipment shall not include buildings and structural components thereof. For purposes of this subdivision, it shall be rebuttably presumed that uses are not isolated or occasional if they total more than four percent of the time the machinery or equipment is operated. For the purposes of this subsection, "manufacture" includes extraction of mineral deposits, the entire printing and bookmaking process, and the entire publication process.

(15) Sales of newspapers and sales of tangible personal property which becomes an ingredient or component part of or is consumed or destroyed, or loses its identity in the manufacture of newspapers, whether sold or distributed without charge. A publication shall not be considered a newspaper unless, on an average for the taxable year, at least ten percent of its printed material consists of news of general or community interest, community notices, editorial comment, or articles by different authors.

(16) Materials, containers, labels, sacks, cans, boxes, drums, or bags and other packing, packaging, or shipping materials for use in packing, packaging, or shipping tangible personal property by a manufacturer or distributor.

(17) Rentals of furniture in furnished apartments or houses for residential use.

(18) Fees and charges paid for admission to or use of federal, state or municipal recreation areas and facilities, including swimming pools.

(19) Rentals of coin-operated washing facilities for individual, or personal use, including car washes and laundries.

(20) Fees and charges for admission to nonprofit museums.

(21) Sales of equipment, supplies, and building materials made directly to volunteer fire departments, volunteer ambulance companies, or volunteer rescue squads for official use by the volunteer organizations.

(22) Funeral charges, including sales of tangible personal property such as caskets, vaults, boxes, clothing, crematory urns, and other such funeral furnishings as are necessary incidents of the funeral, but excluding the sale of flowers and other items sold as an accommodation rather than as an integral part of the funeral service or preparation therefor.

(23) [Repealed.]

(24) Tangible personal property purchased for use or consumption directly and exclusively, except for isolated or occasional uses, in commercial, industrial or agricultural research or development in the experimental or laboratory sense. It shall be rebuttably presumed that uses are not isolated or occasional if they total more than four percent of the time the machinery or equipment is operated. Such research or development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

(25) Sales of agricultural machinery and equipment for use and consumption directly and exclusively, except for isolated or occasional uses, in the production for sale of tangible personal property on farms (including stock, dairy, poultry, fruit and truck farms), orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale. It shall be rebuttably presumed that uses are not isolated or occasional if they total more than four percent of the time the machinery or equipment is operated.

(26) Sales of electricity, oil, gas and other fuels used in a residence for all domestic use including heating. The commissioner shall by rule determine that portion of the sales attributable to domestic use where fuels are used for purposes in addition to domestic use.

(27) Sales of electricity, oil, gas and other fuels used directly and exclusively for farming purposes.

(28) Sales of films where the films are acquired exclusively for the purpose of charging admission to see such films and where such admission is subject to the tax imposed by subdivision 9771(4) of this title.

Subdivision (29) effective until July 1, 2018; see also subdivision (29) set out below.

(29) Aircraft sold to a person which holds itself out to the general public as engaging in air commerce, for use primarily in the carriage of persons or property for compensation or hire; and parts, machinery, and equipment to be installed in any aircraft.

Subdivision (29) effective July 1, 2018; see also subdivision (29) set out above.

(29) Aircraft sold to a person which holds itself out to the general public as engaging in air commerce, for use primarily in the carriage of persons or property for compensation or hire; and parts, machinery, and equipment to be installed in such aircraft.

(30) Railroad rolling stock, including depreciable parts, machinery and equipment to be installed as a capital asset in such rolling stock, sold for use primarily in the carriage of persons or property. For purposes of this section, railroad rolling stock shall include locomotives, cabooses, boxcars, tank cars, flatbed cars, maintenance of way equipment and all other wheeled vehicles used on rails or tracks.

(31) Ferryboats, including depreciable parts, machinery and equipment to be installed as a capital asset in such ferryboat, sold to a person who holds himself or herself out to the general public as engaging in water commerce, for use primarily in the carriage of persons or property for compensation or hire.

(32) Forty percent of the receipts from sales of mobile homes, as defined in 9 V.S.A. § 2601 and modular housing, when they are sold as tangible personal property.

(33) Sales of the flag of the United States to and by veterans' organizations exempt under Section 501(c)(19) of the Internal Revenue Code.

(34) Sales of electricity, oil, gas, and other fuels used directly or indirectly in manufacturing tangible personal property for sale.

(35) Charges made when tangible property is transferred as part of a personal services transaction or a transfer of intangible property rights, as long as the focus of the transaction is the provision of services or the transfer of intangible property rights and not the transfer of tangible personal property; no separate charge is made for the transfer of tangible personal property; and the value of the tangible personal property transferred, including the value of services added to the tangible personal property transferred, is less than 10 percent of the total charge for the transaction. When the focus of the transaction is the transfer of tangible personal property, all receipts from the sale are taxable, including receipts from separately stated charges for services to produce the property, unless the receipts are otherwise exempt under this chapter.

(36) Charges by an advertising agency for the transfer of title or possession of or right to use advertising materials when the transfer is made in conjunction with the delivery of advertising services. This exemption does not extend to charges by any business other than an advertising agency or to charges by any person for printing, imprinting, copying or reproducing advertising materials.

(37) Charges for documents, the sole purpose of which is to record or memorialize professional services rendered, such as, but not limited to, charges for briefs, memoranda, agreements, and wills prepared by lawyers; charges for tax returns and reports produced by accountants; charges for drawings produced by architects; or charges for insurance policies.

(38) Tax on the sale or use of a tracked vehicle shall not exceed \$1,100.00 adjusted as follows: As of July 1 of each even-numbered year, the commissioner shall adjust the most recent unrounded cap amount by the cumulative inflation index for the prior two calendar years under the consumer price index for urban consumer all items, and round that amount to the nearest ten dollars, and shall publish this rounded amount as the new cap.

(39) Sales of building materials within any three consecutive years:
Subdivision (39)(i) incentive is not available for new purchases as of January 1, 2007, and is repealed effective January 1, 2017; see note set out below.

(i) in excess of one million dollars in purchase value, which may be reduced to \$250,000.00 in purchase value upon approval of the Vermont economic progress council pursuant to section 5930a of this title, used in the construction, renovation or expansion of facilities which are used exclusively, except for isolated or occasional uses, for the manufacture of tangible personal property for sale, or;

(ii) in excess of \$250,000.00 in purchase value incorporated into a downtown redevelopment project as defined by rule by the commissioner of the department of housing and community affairs; provided, that the municipality is not receiving an allocation of sales tax receipts pursuant to section 9819 of this title.

(40) [Repealed.]

(41) Charges for wholesale transactions between telecommunications service providers where the service is a component part of a service provided to an end user. This exemption includes, but is not limited to, network access charges and interconnection charges paid to a local exchange carrier.

(42) [Deleted.]

(43) Sales of scrap materials generated in the course of construction or demolition and diverted from waste disposal at the construction or demolition job site; provided that the sale is not by the generator and is by a person who received the materials from the generator with no payment.

(44) Tangible personal property to be incorporated in a rail line in connection with the construction, maintenance, repair, improvement, or reconstruction of the rail line.

(45) Clothing; but clothing shall not include clothing accessories or equipment, protective equipment, or sport or recreational equipment.

(46) Tangible personal property to be incorporated into:

(A) a net metering system as defined in 30 V.S.A. § 219a;

(B) a home or business energy system on a premises not connected to the electric distribution system of a utility regulated under Title 30 and that otherwise meets the requirements of 30 V.S.A. § 219a(a)(3)(A), (C), (D), and (E); or

(C) a hot water heating system that converts solar energy into thermal energy used to heat water, but limited to that property directly necessary for and used to capture, convert, or store solar energy for this purpose. Subdivision (47) incentive is not available for new purchases as of January 1, 2007, and is repealed effective January 1, 2017; see note set out below.

(47) Sales of new personal computers and included software packages, for use exclusively in the Vermont business and directly in the activities defined in section 5930k of this title, if purchased by a high-tech business as approved by the Vermont economic progress council.

(48) Sales of tangible personal property sold by an auctioneer licensed under 26 V.S.A. chapter 89, including any buyer's premium charged by the auctioneer, that are conducted on the premises of the owner of the property, provided that no other person's property is sold on the auction premises and provided that the property was obtained by the owner, through purchase or otherwise, for his or her own use. (Added 1969, No. 144, § 1, eff. June 1, 1969; amended 1969, No. 263 (Adj. Sess.), § 2, eff. April 6, 1970; 1973, No. 270 (Adj. Sess.), §§ 3-5; 1975, No. 156 (Adj. Sess.), § 2; No. 243 (Adj. Sess.), § 10(c), eff. May 1, 1976; 1977, No. 62, §§ 1, 2; No. 86, §§ 2-5; No. 135 (Adj. Sess.); 1979, No. 105 (Adj. Sess.) § 40; 1981, No. 13, eff. date, see note below; No. 87, § 21; 1981, No. 172 (Adj. Sess.), § 11d, eff. April 20, 1982; 1985, No. 88, § 1, eff. June 1, 1985; 1985, No. 135 (Adj. Sess.), §§ 1, 2, eff. April 24, 1986; No. 168 (Adj. Sess.), eff. May 7, 1986; No. 207 (Adj. Sess.), § 2; 1987, No. 82, § 10, eff. June 9, 1987; No. 113, § 2, eff. June 26, 1987; 1987, No. 184 (Adj. Sess.), eff. April 1, 1988; 1989, No. 32; 1989, No. 133 (Adj. Sess.), § 1, eff. April 5, 1990; No. 174 (Adj. Sess.); 1991, No. 32, §§ 13, 27, eff. June 1, 1991; 1991, No. 148 (Adj. Sess.), § 1, eff. May 4, 1992; 1993, No. 89, §§ 14c, 14d, eff. July 1, 1996; 1995, No. 29, § 27, eff. July 1, 1996; 1995, No. 86 (Adj. Sess.), § 3, eff. March 28, 1996; 1997, No. 50, § 45, eff. June 26, 1997; 1997, No. 60, § 72a, eff. June 26, 1997; 1997, No. 60, § 79; 1997, No. 71 (Adj. Sess.), §§ 50, 51, 52; No. 76 (Adj. Sess.), § 1, eff. March 30, 1998; No. 156 (Adj. Sess.), § 21, eff. April 29, 1998; 1999, No. 49, §§ 34, 34a, 64, 74, 92-94, eff. June 2, 1999; 2001, No. 54, § 1; 2001, No. 138 (Adj. Sess.), § 5, eff. June 21, 2002; No. 140 (Adj. Sess.), § 35, eff. June 21, 2002; No. 144 (Adj. Sess.), § 12, eff. January 1, 2003; No. 145 (Adj. Sess.), § 6, eff. June 21, 2002; 2003, No. 68, § 58, eff. date, see note below; 2003, No. 121 (Adj. Sess.), § 88, eff. June 8, 2004; 2003, No. 152 (Adj. Sess.), § 17, eff. date, see note below; 2005, No. 75, §§ 2, 2b, 22; 2005, No. 184 (Adj. Sess.), § 4; 2007, No. 81, § 7, eff. June 11, 2007, § 7a, eff. July 1, 2011; 2007, No. 164 (Adj. Sess.), § 34; 2011, No. 45, § 36g; 2011, No. 143 (Adj. Sess.), § 49, eff. May 24, 2011; No. 143 (Adj. Sess.), § 54, eff. Jan. 1, 2012; 2011, No. 143 (Adj. Sess.), § 54a; 2011, No. 153 (Adj. Sess.), § 42, eff. July 1, 2013.)