
PART SEVEN — BUSINESS AND TAXATION CODE

ARTICLE 736. Sales and Use Tax

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CROSS REFERENCES

Authority of Home Rule municipalities to enact sales tax—see WV Code 8-1-5a(i)(14)

736.01 Short Title.

This Article shall be known as, and may be cited as, the “Harpers Ferry Municipal Sales and Use Tax Ordinance”.

736.02 Authority.

The authority to enact this Article is granted to the Corporation of Harpers Ferry through §8-1-5a of the Code of West Virginia, 1931, as amended; and by the provisions of the Harpers Ferry Home Rule Plan, adopted by the Municipal Home Rule Board on 16 November 2015.

736.03 Definitions.

For the purpose of application, interpretation, and construction of this Ordinance, the definitions as set forth in West Virginia Code Chapter 11, Articles 15, 15A and 15B, shall apply, and the definitions therein are fully incorporated herein by reference.

736.04 Imposition of a Municipal Sales and Service Tax.

Effective on the first day of July 2016, there is hereby imposed upon all persons or entities engaging in business within the municipal boundaries of the Corporation of Harpers Ferry a Municipal Sales and Service Tax in an amount equal to one percent (1%) on all sales made and services rendered within the boundaries of the municipality of the Corporation of Harpers Ferry, subject to the following:

- (a) The base of the Municipal Sales and Service Tax imposed herein shall be identical to the base of the Consumers Sales and Service Tax imposed pursuant to the provisions of West Virginia Code Chapter 11, Article 15; and,
- (b) Except for the exemption provided in West Virginia Code §11-15-9f, all exemptions and exceptions from Consumers Sales and Service Tax apply to this Municipal Sales and Service Tax; and
- (c) Sales of motor vehicles subject to the tax imposed under West Virginia Code §11-15-3c and sales of gasoline and special fuel are not subject to the Municipal Sales

HISTORY:

The Corporation of Harpers Ferry was granted Municipal Home Rule on 16 November 2015, allowing the Corporation to establish a municipal sales tax when coupled with a reduction in the business and occupation tax rate. Ord. 2015-13 establishes the sales tax, reduces the business and occupation tax rate, and reduces the room occupancy tax rate, all effective 1 July 2016.

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- and Service Tax herein imposed; and,
- (d) The Municipal Sales and Service Tax herein imposed is subject to the sourcing rules set forth in West Virginia Code Chapter 11, Article 15B.

736.05 Imposition of a Municipal Use Tax.

Effective on and after the first day of July 2016, a Municipal Use Tax is hereby levied and imposed on the use within the Corporation of Harpers Ferry tangible personal property, custom software, and taxable services, at the rate of one percent (1%) of the purchase price of such property or taxable services, subject to the following:

- (a) The base of the Municipal Use Tax herein imposed shall be identical to the base of the use tax imposed pursuant to West Virginia Code Chapter 11, Article 15A; and,
- (b) Except for the exemptions provided in West Virginia Code §11-15-9f, all exemptions and exceptions from the use tax imposed pursuant to West Virginia Code Chapter 11, Article 15A apply to the Municipal Use Tax herein imposed; and,
- (c) Uses of motor vehicles subject to the tax imposed under West Virginia Code §11-15-3c and uses of gasoline and special fuel are not subject to the Municipal Use Tax herein imposed; and,
- (d) The Municipal Use Tax herein imposed is subject to the sourcing rules set forth in West Virginia Code Chapter 11, Article 15B.

736.06 Credit against Municipal Use Tax.

- (a) A person or entity is entitled to a credit against the Municipal Use Tax herein imposed on the use of a particular item of tangible personal property, custom software or services equal to the amount, if any, of sales tax lawfully paid to another municipality for the acquisition of the property or service; provided, the amount of credit allowed shall not exceed the amount of Municipal Use Tax imposed on the use of the property or service in the Corporation of Harpers Ferry. For purposes of this Ordinance the following definitions shall apply:
- (1) "Municipality" means a municipality, as defined in West Virginia Code §81-2, or a comparable unit or entity of local government in another State; and,
- (2) "Sales Tax" includes a sales tax or compensating use tax lawfully imposed on the use of tangible personal property, custom software or a service by the municipality or county, as appropriate, in which the sale or use occurred; and,
- (3) "State" includes the 50 states of the United States and the District of Columbia, but does not include any of the several territories organized by Congress.
- (b) No credit is allowed under this Ordinance for payment of any sales or use taxes imposed by this State or any other State.

736.07 Tax Commissioner shall administer, enforce and collect taxes.

The services of the West Virginia State Tax Commissioner shall be used to administer, enforce and collect the Municipal Sales and Service Tax and Municipal Use Tax herein imposed and the Corporation shall coordinate such services with the West Virginia State Tax Department.

736.08 Municipal taxes imposed in addition to Municipal Sales & Service Tax and Municipal Use Tax.

The Municipal Consumers Sales and Service Tax and Municipal Use Tax imposed pursuant to this Ordinance shall be in addition to the Consumers Sales and Service Tax and Use Tax imposed pursuant to West Virginia Code Chapter 11, Articles 15 and 15A, on sales made and

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services rendered and taxable uses of tangible personal property, custom software, and taxable services within the municipal boundaries of the Corporation of Harpers Ferry and, except as exempted or excepted, all sales made and services rendered and taxable uses of tangible personal property, custom software, and taxable services within the municipal boundaries of the Corporation of Harpers Ferry shall remain subject to the tax levied by those Articles. Further, the Municipal Sales and Service Tax and Municipal Use Tax imposed pursuant to this Ordinance shall be imposed in addition to any tax imposed pursuant to the provisions of West Virginia Code §7-22-1, §8-13-6, §8-13-7, and §8-38-12, respectively.