

Vermont Department of Taxes

TAX: SALES AND USE TAX TB 30

**SUBJECT: Temporary Exemption for Computers
August 7 – 9 and October 9-11, 2004**

2004 Act 121 § 51 Issued: July 7, 2004

Personal computers purchased by individuals for personal use are exempt from Vermont Sales and Use Tax and from the Local Option Sales Tax for a three-day period August 7 through August 9, 2004 and for the three-day period October 9 through October 11, 2004.

Computers and components qualifying for the exemption

The exemption is available for new or used desktop, laptop or notebook computers selling for \$4,000 or less.

When a separate charge is made for a monitor, keyboard, mouse or similar pointing device, operating system software, or software installed by the original equipment manufacturer (OEM), these items are exempt if the CPU is also purchased during the same three-day period and the total charge, including the CPU, is not over \$4,000.

Products not exempt

The exemption **does not** apply to handheld devices such as iPAQ, Palm or other pocket PC devices; tablet PC's; software products not OEM installed (except operating systems); or to peripheral devices such as printers, scanners, multifunctional office machines, digital cameras, web cams, storage devices, network switches, routers, adapters, cables, game controllers, or surge protection or uninterrupted power supply devices. Tax must be collected on charges made for these items.

Bundled products

When a computer and other merchandise to be used with the computer are offered for sale at a single, unitemized price the entire package is exempt if (1) the package is sold for \$4,000 or less and (2) the most common selling price of items that would be taxed if charged separately is not more than \$ 250 or 15% of the selling price of the package, whichever is greater. For example, a package including a CPU, keyboard, monitor, mouse, and printer would qualify for the exemption unless the most common selling price of the printer is more than 15% of the price of the package and more than \$250.

Purchasers qualifying for the exemption

The exemption is available to individuals buying for personal use. Purchases by corporations or other businesses and purchases by individuals for business use remain taxable. An individual purchasing a computer partly for personal use and partly for business may buy tax-free if the intended personal use is at least 75% of the total use of the computer.

Documentation of the exemption

No additional documentation will be required in most cases. Normal business records showing the name and address of the purchaser, date of sale, items purchased and selling price must be kept. A seller is not required to verify that a purchase by an individual is for personal use and may sell tax-free unless purchaser uses a business name or d/b/a, the computer is installed at a business site, or other circumstances of the sale make it clear that the purchase is not for personal use.

Determining when a sale is made

The exemption applies if an order is accepted during either three-day period, even if the computer is delivered after the tax holiday period has ended provided that the purchaser has either paid a deposit at the time of the order or has authorized the seller to charge a credit card or other account when the computer becomes available.

"Rain checks" and similar programs where a purchaser receives only the right to buy at a later date **do not** come under this rule. The computer must be ordered during the holiday period.

Refunds to purchasers

An individual may apply to the department of taxes for a refund of tax paid on a personal computer for personal use during the holiday period. A refund is available for tax collected in error by the seller or for tax paid on a monitor, mouse, keyboard, or operating system software when these components and the CPU are purchased during the holiday period from different sellers.

Persons with questions regarding the sales tax holiday for computers may telephone Taxpayer Services at (802) 828-2551, email to bustax@tax.state.vt.us, or write to the Department at PO BOX 547, Montpelier, Vt. 05601-0547.

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Approved by:

Tom Pelham
Commissioner of Taxes

The Department has issued Technical Bulletin TB-30 which provides the administrative rules for the August 7 – 9 and October 9-11, 2004 Holiday. These administrative rules are substantially the same as the rules used for the 2003 holiday. A supplemental Question and Answer document was maintained for the 2003 holiday. The Q&A continues to apply to 2004 and will be updated periodically as additional questions are raised.

You may email questions about the holiday to bustax@tax.state.vt.us.

Questions and Answers

Q. Do any dual-processor computers qualify for the exemption?

A. A dual processor intel-based machine is not a personal computer and does not qualify for exemption. However, there are certain Apple computers that utilize dual processors, such as the Apple Desktop G4 and G5, that are personal computers. The purchase of one of these by an individual for personal use will qualify for the exemption.

Q. Why are computers costing more than \$4,000 still taxable?

A. The temporary exemption is directed toward facilitating the acquisition of basic computers by youth of Vermont. Although there is a wide range of prices for computer systems, basic computers are available for \$4,000 or less.

Q. A monitor or keyboard is exempt when it is sold with a CPU, even if it is charged separately. A charge for a printer, however, is taxable, even if there is a CPU sold at the same time. Why?

A. Monitors, keyboards, mice, and operating system software are treated as components of the computer. Printers and other peripheral equipment, as well as application software not installed by the original equipment manufacturer are not part of a basic computer.

Q. If Peripherals are not part of a basic computer purchase, why can they be "bundled" into an exempt package?

A. The bundling rule is created to facilitate marketing programs where packages are offered at a single price. A package is considered a sale of a computer as long as the value of the extra merchandise is comparatively small, either \$250 or less or less than 15% of the package value.

Q. The \$250 or 15% in the bundling rule refers to the "most common selling price" of the otherwise-taxable component of the bundle. What does this mean?

A. In most cases it means the list price of the component when it is sold separately. A seller that routinely sells the component at a discount from list price may use the discounted price.

Q. Does a seller need approval from the Department to offer a bundled package at a single price during the holiday?

A. No.

Q. Does a layaway sale qualify for exemption?

A. Yes. As long as the order is accepted during the three-day period, it does not matter that the computer is not delivered until a later date. The Department will consider an order to have been accepted if a deposit is made. Therefore, a typical layaway sale would qualify.

Q. Does the provision allowing purchasers to receive refund from the Department mean that a seller can elect not to participate in the holiday?

A. No. Because the law makes computers exempt for these two three-day holidays, a seller cannot legally collect sales tax. Vermont law allows purchasers to apply to the Department for refunds when tax is collected in error. The refund provision will also allow a purchaser to obtain the benefit of the exemption when components of the computer are purchased from different sellers.

Q. What documentation must be included in a refund request?

A. A copy of invoices showing the tax collected on a computer purchased during the holiday period. If a monitor, keyboard, mouse, or operating software is purchased from a seller other than the seller of the CPU, the refund application must also include a copy of the invoice for the CPU purchased during the period.

Q. Can a rental of a computer qualify for the exemption?

A. Yes. A rental by an individual for personal use will qualify only if (1) the rental was initiated during the three-day period and (2) the similar computers are sold for \$4,000 or less. Only the charge for the months of August 2004 and/or October 2004 would be exempt.

Q. Does the exemption also apply to Use Tax if the computer is purchased outside of Vermont and computers purchased through mail-order or over the internet?

A. Yes.