Vermont Sales and Use Tax for Photographers Operating in Vermont

This fact sheet provides guidance on Vermont Sales and Use Tax for photographers who have business activity in Vermont. Services are not usually subject to sales tax in Vermont, but when the focus of a transaction is the purchase of tangible personal property (TPP) subject to tax, the transaction also is subject to tax.

Because the focus of the service of photography (the transaction) is to produce a photo or image (TPP), both 1) the charges for service to produce the TPP and 2) the TPP are taxable. As a photographer, you must charge and collect sales tax from your customers at the point of sale and remit it to the Vermont Department of Taxes.

What is "Tangible Personal Property"?

Tangible personal property means personal property which may be seen, weighed, measured, felt, touched, or in any other manner perceived by the senses.

32 V.S.A § 9701(7)

What Is Vermont Sales and Use Tax?

Sales Tax

A sales tax of 6% is imposed on the retail sales of TPP unless exempted by law. Sales tax is *destination-based*, meaning the tax is applied based on the location where the buyer takes possession of the item or where it is delivered. Sellers should collect Vermont Sales Tax on TPP delivered to destinations in Vermont at the time and place of the sale.

Businesses are responsible for collecting sales tax from their customers and then filing and paying the tax to the state. Sales tax is reported using the accrual basis, requiring that sales tax is charged at the time of the sale and reported even if full payment for the sale has not been received by the seller.

Use Tax

Use tax is paid by the buyer of an item when the purchase subject to Vermont sales tax is made from a seller *that is not registered by the state of Vermont* to collect tax. Sales tax and use tax work together to create the same tax result whether a seller collects sales tax or not. Use tax has the same rate, rules, and exemptions as sales tax.

When to Charge Vermont Sales Tax to Customers

Photography Services and TPP Subject to Tax

When you sell your photography services, photos, and photo accessories and deliver them to a location in Vermont, you must charge and collect Vermont Sales Tax at the point of sale. The following are always subject to tax:

- Photos, developed and printed
- Photos delivered on a storage device, such as a CD or DVD, thumb drive, etc.
- Frames, albums, matting, and other photo accessories
- Delivery charges

The following services are taxable when provided as part of a transaction involving the sale of photographs:

- Consultation fees
- Sitting fees
- Labor charges for taking photos at an event
- Modeling charges
- Charges for backdrops and props
- Usage fees or license to use
- Service fees

Services and TPP in these lists are commonly used in the production of photos sold by photographers. You may be

selling TPP that is not listed but which is subject to sales tax. If in doubt, please call the Department and inquire.

It makes no difference whether or not the components of the photography services and TPP are itemized separately on an invoice or bundled into a package for a single price. All are subject to sales tax.

Digital photos and digital videos

Digital photos downloaded electronically *are not subject* to Vermont Sales and Use Tax. Examples include photos downloaded from the internet by the customer or emailed to the customer.

Digital videos are "specified digital products" under Vermont law and *are subject* to sales tax. 32 V.S.A. § 9701(46).

Multiple orders

A customer may pay the invoice on an order, including any applicable tax, but then at a later date, order more photos and other items associated with that original order. You may treat the second and any subsequent orders as separate from the original order, charging applicable tax.

Page 1 of 2



Disclaimer: This information provided here is intended to be an overview only. Vermont tax statutes, regulations, Vermont Department of Taxes rulings, or court decisions supersede information presented here.

Bundling Items into a package

If *only one item subject to Vermont Sales Tax* is included in a bundled package, then the total price of the package is subject to sales tax. If nothing in the package price is subject to sales tax (for example, you are selling digital photos only), then you do not need to charge tax on the package. This rule applies even when items are listed separately on the invoice.

The "destination wedding" and situations where photos are delivered out of state So-called "destination weddings" in Vermont are very popular among people who live outside the state. If you deliver photos and other TPP to locations outside Vermont, then you do not charge Vermont Sales Tax on services and TPP. Instead, follow the tax laws of the state where the buyer takes possession.

Local Option Sales Tax May Apply

Some Vermont municipalities impose a local option sales tax of 1% in addition to state sales tax. Businesses are responsible for collecting and remitting local option tax. Municipalities that impose local option taxes are listed at tax.vermont.gov.

Please note: local option tax does not apply to use tax.

Photographers from out of state

If your business is located in another state but you provide photography services and sales to customers in Vermont, you must register for a Vermont business tax account and collect and remit sales tax.

When You Must Pay Vermont Sales and Use Tax TPP subject to Vermont Sales Tax

TPP purchased to operate your business, such as office equipment and supplies, is subject to sales tax.

Exemptions from Vermont Sales Tax

TPP purchased and delivered to you in Vermont, such as machinery, equipment, and materials used and consumed in the creation and printing of the photos, is exempt from sales tax with a properly completed exemption certificate. Some examples of tax-exempt TPP in this category include the following:

- machinery, such as cameras and lenses
- equipment, such as backdrops and props
- materials consumed in the making of the photos, such as film and developing chemicals
- · photographic paper and ink
- devices on which photos may be delivered to the customer, such as CDs, DVDs, or thumb drives
- packing and packaging materials (boxes, Styrofoam, bubble wrap, etc.) used to ship photos and photo accessories to the customer

You must submit to the seller Form S-3M, Vermont Sales Tax Exemption Certificate for Manufacturing, Publishing, Research & Development or Packaging at time of purchase.

TPP purchased and delivered to you in Vermont that becomes an integral part of the photo is exempt from sales tax with a properly completed exemption certificate. Examples of tax-exempt TPP in this category include photo accessories, such as frames and albums. You must submit to the seller Form S-3, Vermont Sales Tax Exemption Certificate for Purchases for Resale and by Exempt Organizations, at the time of purchase.

Sales tax exemption on photos developed at a photo lab

Many photographers send film or digital images to a professional photo lab, which charges sales tax on the developed photos. You may use Form S-3 to exempt your purchase from tax **as long as** you will be collecting tax from your customer.

When to pay use tax on TPP you purchase

If you purchase an item subject to sales tax in Vermont from a seller that is not registered to collect tax in Vermont and therefore does not charge tax, you must pay the use tax. This usually occurs when making purchases over the internet or from a state that has no sales tax.

You may also have the situation where you make an exempt purchase of an item you intend to resell to customers, but then decide to remove it from inventory for personal use or for use in the operation of your business. In this situation, you must pay use tax on the item as it will not be sold to a customer.

Know Tax Law and Regulations

Business owners are expected to be familiar with state tax laws and regulations applicable to their businesses. For more information, please see the following:

See 32 V.S.A. Chapter 233

http://legislature.vermont.gov/statutes/title/32

Sales and Use Tax Regulations

tax.vermont.gov/regulations

Technical Bulletins on Sales and Use Tax

tax.vermont.gov/bulletins

Fact Sheets

tax.vermont.gov/fact-sheets

Forms

tax.vermont.gov/forms

To learn more about Vermont business taxes, visit tax.vermont.gov, or contact us at tax.business@vermont.gov or (802) 828-2551.

