



TAX BULLETIN 21-2

Virginia Department of Taxation

February 22, 2021

ADDITIONAL SALES AND USE TAX IN HENRY COUNTY

Effective April 1, 2021, a new one percent additional retail sales and use tax will be levied in Henry County (the “Henry County additional tax”). The sales and use tax levied in Henry County will total 6.3 percent, comprised of the 4.3 percent state tax, the 1.0 percent local option tax, and the 1.0 percent Henry County additional tax.

Background

The retail sales and use tax is imposed at a total combined rate of 5.3 percent statewide. The tax consists of the 4.3 percent state tax and the 1.0 percent local option tax.

In the Northern Virginia, Hampton Roads, and Central Virginia regions, a 0.7 percent regional state tax is also imposed to fund transportation, resulting in a combined rate of 6.0 percent in these regions. See Tax Bulletin 20-8 and Public Document 13-103 for more information.

An additional one percent sales and use tax is levied in the City of Williamsburg and the Counties of James City and York (the “Historic Triangle”). The rate of the tax in these three localities totals 7.0 percent, comprised of the 4.3 percent state tax, the 0.7 percent Hampton Roads regional tax, the 1.0 percent local option tax, and the 1.0 percent Historic Triangle additional tax. See Tax Bulletin 18-3 for more information.

An additional one percent sales and use tax was imposed in Halifax County effective July 1, 2020, bringing the total sales and use tax rate in Halifax County to 6.3 percent. See Tax Bulletin 20-6 for more information.

New Henry County Additional Tax

Chapter 327 of the 2020 *Acts of Assembly* granted Henry County the authority to levy an additional sales and use tax of up to one percent. After a referendum, Henry County adopted an ordinance on November 24, 2020 to levy an additional one percent tax beginning April 1, 2021. The sales and use tax levied in Henry County will total 6.3

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percent, comprised of the 4.3 percent state tax, the 1.0 percent local option tax, and the 1.0 percent additional tax.

Sales made on or after April 1, 2021 will be subject to the new tax rate. Items delivered to a purchaser and paid for on or after April 1, 2021 will be taxed at the 6.3 percent rate, regardless of when the property was ordered. The increased rate will not apply to property delivered prior to April 1, 2021, but paid for on or after April 1, 2021. Also, the increased rate will not apply when a taxable sale or lease payment is paid for in full prior to April 1, 2021, even though delivery may occur on or after April 1, 2021, or the paid-in-full lease payment covers a lease period beginning on or after April 1, 2021.

When goods are purchased from a business that does not collect the sales tax or goods are purchased tax-free while outside Virginia and brought into Virginia, the goods are generally subject to the consumer use tax, including the Henry County additional use tax.

Food Purchased for Home Consumption

The rate of tax on food purchased for home consumption is unaffected by the law change and will remain at the current 2.5 percent (1.5 percent state and 1 percent local) rate statewide.

Essential Personal Hygiene Products

Effective January 1, 2020, the retail sales and use tax rate on qualifying essential personal hygiene products was reduced to 2.5% statewide. "Essential personal hygiene products" means "nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets; and menstrual cups and pads, panty liners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow." Please see Tax Bulletin 19-8 for more information. The Henry County additional tax will not apply to essential personal hygiene products.

Sourcing Rules

The Henry County additional tax is sourced in the same manner as the local option sales and use tax, the Northern Virginia and Hampton Roads regional taxes, and the Historic Triangle additional tax.

For intrastate sales, the local option sales tax is generally sourced to the city or county of the place of business of the dealer collecting the tax. In-state dealers should collect the Henry County additional tax on sales made in places of business located within Henry County, even if the goods are delivered outside of Henry County. Likewise, in-state dealers not located within Henry County should not collect the additional tax, even if the goods are delivered into Henry County.

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1. When tangible personal property is purchased at the place of business of the seller, the sale is sourced to that place of business, even if the goods are ultimately delivered to the purchaser at another location.

Example 1:

Dealer A makes a sale to a customer on April 1, 2021 at his place of business within Henry County. The sale is sourced to Henry County. Dealer A should collect 6.3 percent (4.3 percent state, 1.0 percent local, and 1.0 percent Henry County additional tax) sales tax on the purchase.

Example 2:

Dealer B makes a sale to a customer on April 1, 2021 at his place of business within Henry County. Dealer B has the goods shipped to the customer's home in the City of Roanoke. The sale is sourced to Henry County. Dealer B should collect 6.3 percent (4.3 percent state, 1.0 percent local, and 1.0 percent Henry County additional tax) sales tax on the purchase.

2. When tangible personal property is purchased remotely (by telephone, Internet, or mail order) from an in-state dealer with a place of business in Virginia, the sale is sourced to the location in which the order was first taken, even if the goods are ultimately delivered to the Customer at another location.

Example 3:

Customer C orders merchandise from Dealer D on August 1, 2021 by placing a call to Dealer D's store, located in Henry County. The goods will be shipped to Customer C's home in the City of Charlottesville. The sale is sourced to Henry County. Dealer D should collect 6.3 percent (4.3 percent state, 1.0 percent local, and 1.0 percent Henry County additional tax) sales tax on the purchase.

Example 4:

Customer E orders merchandise from Dealer F on August 1, 2021 by placing a call to Dealer F's store, located in Rockingham County. The goods will be shipped to Customer E's residence in Henry County. The sale is sourced to Rockingham County. Dealer F should collect 5.3 percent (4.3 percent state and 1.0 percent local) sales tax on the purchase.

3. Pursuant to 2019 *Acts of Assembly*, Chapters 815 and 816, remote sellers and marketplace facilitators that conduct or facilitate sales of greater than \$100,000 or numbering at least 200 transactions annually to Virginia customers are required to register to collect the sales and use tax, including the Henry County additional tax. Remote sellers and marketplace facilitators should consult the Department of

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Taxation's online lookup tool to determine the correct local tax rate. See [Guidelines for Remote Sellers and Marketplace Facilitators](#) or the Department of Taxation's [Economic Nexus Page](#) for additional information.

When tangible personal property is purchased remotely from an out-of-state dealer or marketplace facilitator that is registered to collect Virginia sales tax and it is not received by the purchaser at the dealer's business location, the sale is sourced to the city or county of destination. (See 23 Virginia Administrative Code § 10-210-2070). Similarly, remote sellers and marketplace facilitators accepting and processing orders to Virginia customers through a website or electronic application may also use destination sourcing if unable to associate the order with a physical place of business in Virginia. See [Guidelines for Remote Sellers and Marketplace Facilitators](#) for additional information.

Example 5:

Customer G orders merchandise from remote seller Dealer H's website on August 1, 2021, which has a place of business and warehouse in North Carolina. Dealer H has economic nexus with Virginia as a result of conducting greater than \$100,000 of sales to Virginia customers last year and is therefore required to register to collect the Virginia sales tax. The invoice indicates that the merchandise will be shipped to Customer G's residence in Henry County. Because Dealer H's place of business and warehouse are located outside of Virginia, the sale is sourced to the location where the merchandise is delivered, Henry County. Dealer H should collect 6.3 percent (4.3 percent state, 1.0 percent local, and 1.0 percent Henry County additional tax) sales tax on the purchase.

The result would have been the same if Dealer H had a fulfillment center or warehouse in Virginia but accepted and processed the order through its website and was unable to associate the order with a physical place of business in Virginia.

4. When tangible personal property is leased from an in-state lessor, the sale is sourced to the lessor's place of business.

Example 6:

Customer I enters into a rental agreement with a lessor with a place of business in Henry County. The equipment will be used for a highway construction project in Fairfax County. The sale is sourced to the lessor's place of business in Henry County. The lessor should collect the tax at the rate of 6.3 percent (4.3 percent state, 1.0 percent local, and 1.0 percent Henry County additional tax).

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Transient Accommodations

The Henry County additional tax applies to rentals of accommodations to transients on and after April 1, 2021. Accommodations i) furnished to transients on or after April 1, 2021, and ii) paid for on or after April 1, 2021, are taxed at the 6.3 percent rate in Henry County, regardless of when the rental was reserved. The increased tax rate will not apply to accommodations furnished to transients prior to April 1, 2021, but paid for on or after April 1, 2021; nor will it apply when the accommodations are paid for in full prior to April 1, 2021, even if the accommodations are not furnished to the transient until on or after April 1, 2021.

Example 7:

Customer J reserves a stay in a summer rental house in Henry County for the first week in October 2021. Customer J makes the reservation and pays for the accommodation in full on March 15, 2021. Even though the accommodation will not be furnished to Customer A until after April 1, 2021, as the accommodation is paid in full prior to April 1, 2021, the accommodation is subject to sales tax at the rate of 5.3 percent (4.3 percent state and 1.0 percent local). The accommodation would not be subject to the Henry County additional tax.

Example 8:

Customer K reserves a stay in a bed and breakfast inn in Henry County for the first week in August 2021. Customer K makes the reservation and pays a deposit on March 15, 2021. Customer P pays the remaining amount at the end of the stay in August. As the accommodation was furnished to Customer K after April 1, 2021, and paid in full after April 1, 2021, the accommodation is subject to sales tax at the increased rate of 6.3 percent (4.3 percent state, 1.0 percent local, and 1.0 percent Henry County additional tax).

Filing of Returns

The Henry County additional tax will be reported on dealers' retail sales and use tax returns and on business' consumer's use tax returns. Returns for January, February, and March 2021 are not affected by the legislation. Monthly and quarterly filers should use the new returns for periods beginning with the month of April 2021.

Additional Information

This Tax Bulletin and the Department's Public Documents are available on-line in the [Laws, Rules & Decisions](#) section of www.tax.virginia.gov. If you have any questions regarding this Tax Bulletin, please contact the Department at (804) 367-8037.