

## Article - Tax - General

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§11-601.

(a) A buyer who fails to pay the sales and use tax to the vendor for any purchase or use subject to the tax as required in § 11-403 of this title or who is required by regulation to file a return for a purchase or use subject to the tax shall pay the sales and use tax on that purchase or use with the return that covers the period in which the buyer makes that purchase or use.

(b) (1) A vendor who makes a sale subject to the sales and use tax shall pay the sales and use tax that the vendor collects for that sale or that the vendor assumes or absorbs for that sale with the return that covers the period in which the vendor makes that sale.

(2) A vendor who, under a direct payment permit, makes a purchase or use subject to the sales and use tax shall pay the sales and use tax for that purchase or use with the return that covers the period in which the vendor makes that purchase or use.

(3) A vendor who makes a sale subject to the sales and use tax under a prepayment authorization or through a vending machine shall pay the sales and use tax on that sale with the return that covers the period in which the vendor makes that sale.

(c) Personal liability for the sales and use tax and for the interest and penalties of the tax extends to:

(1) a buyer for tax that the buyer does not pay to:

- (i) the vendor as required in § 11-403 of this title; or
- (ii) the Comptroller as required by regulation; and

(2) a vendor for tax that the vendor does not:

(i) collect from the buyer as required in § 11-403 of this title; or

(ii) pay to the Comptroller as required in subsection (b) of this section.

(d) If a buyer or vendor liable for the sales and use tax and for the interest and penalties of the tax under subsection (c) of this section is a corporation or limited liability company or limited liability partnership (including a limited partnership registered as a limited liability limited partnership), personal liability for the sales and use tax and for the interest and penalties of the tax extends to:

- (1) in the case of a corporation:
    - (i) the president, vice president or treasurer of the corporation; and
    - (ii) any officer of the corporation who directly or indirectly owns more than 20% of the stock of the corporation; and
  - (2) in the case of a limited liability company:
    - (i) if the limited liability company does not have an operating agreement, all members; or
    - (ii) if the limited liability company has an operating agreement, those individuals who manage the business and affairs of the limited liability company; and
  - (3) in the case of a limited liability partnership:
    - (i) if the limited liability partnership does not have a written partnership agreement, all general partners; or
    - (ii) if the limited liability partnership has a written partnership agreement, those individuals who manage the business and affairs of the limited liability partnership.
- (e) A member of a limited liability company does not manage the business and affairs of the limited liability company under subsection (d) of this section solely by doing one or more of the following:
- (1) consulting with or advising the individuals who manage the business and affairs of the limited liability company;
  - (2) directing the management of the limited liability company in the same manner as a director of a corporation directs the management of a corporation; or
  - (3) voting on any matter required to be voted on by the members of the limited liability company, including, but not limited to:
    - (i) the approval or disapproval of amendments to the operating agreement;
    - (ii) the termination and winding up of the limited liability company;
    - (iii) the sale, exchange, lease, mortgage, pledge, or other transfer of a material portion of the assets of the limited liability company;
    - (iv) the incurrance of indebtedness by the limited liability company other than in the ordinary course of its business;

company;

- (v) a change in the nature of the business of the limited liability

- (vi) the expulsion or admission of a member;

- (vii) the appointment or discharge of a manager;

entity; or

- (viii) the merger of the limited liability company with or into any other

- (ix) any matter related to the business of the limited liability company not otherwise enumerated in this section that the operating agreement states may be subject to the approval or disapproval of the members.

(f) The possession or exercise of powers other than those contained in subsection (e) of this section by a member does not necessarily constitute management by the member of the business or affairs of the limited liability company.

(g) The same rules and exceptions applicable to a member of a limited liability company set forth in subsections (e) and (f) of this section shall be applicable to individuals and members of limited liability partnerships.

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