

The Intersection of Pennsylvania Puppy Sales and Taxes

Snapshot of Sales Tax History

The Attica region of Greece was imposing sales tax on certain good(s) as early as 415 BC., according to the book, *Ancient Greece*, by Matthew Dillon and Lynda Garland. Other literature has indicated that certain forms of sales tax were imposed much earlier perhaps during the middle to late Bronze Age. Scholars have also noted that sales tax was imposed in the Roman Republic during emperor Augustus' rule. It is good to have some perspective on history less we mistakenly think sales and use tax is merely a modern concept. Although not a contemporary invention, it is alive and well in the United States of America today.

The United States Federal Government does not impose a general sales tax (although it imposes selective taxes on certain items like gasoline and cigarettes), but it *does* grant individual states the liberty to do so. There are currently 50 states comprising the United States of America. While the word *United* carries the connotation of cohesion and uniformity, it appears like sales tax falls outside of that unity. 45 of the 50 states have a type of general sales tax. Additionally, sales tax can be, and frequently is, imposed at county levels in addition to state. Interestingly, among the 5 states with currently no state-wide sales tax are Delaware (*the First State*) and Alaska (*the Last Frontier*).

You might find it surprising that *general sales tax* in America is not a century old yet. But being relatively new does *not* indicate low complexity. In 2018 the Supreme Court ruled in favor of South Dakota (*SD v. Wayfair*), which essentially opened even wider the floodgates of nexus complexity and revenue opportunities for sales. Although certain states have implemented the Streamlined Sales and Use Tax Agreement - and lobbyist are requesting additional sales and use tax uniformity at the state(s) level - there are many miles between 2023 and nation-wide sales tax uniformity. Arguably, the post-SD-v.-Wayfair playing field is fairer for states and businesses, albeit rougher for many. All this to say that sales tax can be complex and varies by state.

Sanpshot of the History of Puppies

The history of dogs is beyond the bounds of this article therefore we shall yield to geneticists that narrative which by many accounts they're still attempting to refine. Interestingly, however, is the wise author's mention of greyhounds in Proverbs 30:31 (KJV). However, Bible scholars don't agree on whether that's referring to a dog, so we'd better leave that discussion to the experts.

Puppy Sales in Pennsylvania

While certain states may have comparable sales tax provisions regarding puppy sales, the focus of this article is on Pennsylvania puppy sales. If you sell puppies in Pennsylvania at retail, there is a specific section in Pennsylvania's tax code to be aware of. PA Code section 7202(a) imposes sales tax on the purchase price of each separate sale at retail of tangible personal property unless specifically exempt. It says that the *vendor* is required to remit the collected sales tax to the Commonwealth. Additionally, Pennsylvania's Retailer Information guide includes as taxable the sale, rental, or adoption of pets including from shelters. Dog breeders deserve to be informed that Pennsylvania requires the remission of sales tax on retail puppy sales.

Pennsylvania's sales & use tax returns are generally due either on a monthly, quarterly, or semiannual basis, depending upon the assessment provided by the Department of Revenue. The sales & use tax rate in Pennsylvania is currently 6% with an additional local sales tax of 1% on sales in Allegheny County and 2% on sales in Philadelphia. Sales tax should not be confused with income tax. These are two separate items and compliance with the one does not indicate



compliance with the other. The annual income tax return that you file with Pennsylvania is unrelated to the sales & use tax returns that PA requires retailers to file.

To be compliant with Pennsylvania's tax code, aspiring dog breeders can register with PA via its online platform <https://mypath.pa.gov/>. After receiving a sales & use tax ID the

breeder will be required to start filing periodic returns (and remitting tax to PA if there were taxable sales) as outlined by the PA Department of Revenue. The returns are due whether any taxable sales have been made during the period or not and can be filed online at

<https://mypath.pa.gov/>, or TeleFile may be used for certain filers. Again, this return is unrelated to your annual Pennsylvania income tax return.

Risks of Noncompliance

What are the risks of not being compliant with Pennsylvania's sales tax code when selling puppies? There are several facets to the risk of non-compliance including the obvious 6% liability. Specifically, when selling a taxable good or service the sales tax is usually collected from the retail customer by the seller and merely remitted to PA resulting in zero tax expenses for the seller. However, if no

sales tax was collected at the point of sale, the seller now has full exposure to the 6% that should have been paid by the customer. Paying the taxes which should have been paid by the customer can be painful in an audit assessment.

Perhaps a less-thought-through aspect, however, is the accrued interest and penalties in addition to the tax liability. Then there is the statute of limitations that is generally not in effect for non-compliant taxpayers which allows PA to open your case from who-knows-how-long-ago.

Pennsylvania's sales and use tax statute of limitations is three years from the later of the last day of the year the tax is due or the date of filing which means the 3-year clock is not running until the return is filed.

Say a breeder sold puppies at retail in every quarter during 2012 - 2013 aggregating \$100,000 in untaxed sales averaging \$12,500 per quarter. Years later the PA Department of Revenue caught a scent of untaxed puppy sales coming from this particular breeder, and during a 2012 - 2015 audit conducted in 2023 it assessed the former breeder with a \$9,861.26 liability (*\$6,000 in taxes + \$1,500 penalties + \$2,361.26 interest, based on the Department's Penalty & Interest Calculator found at <https://mypath.pa.gov/> /#1*).

Beware that interest rates vary, and PA may additionally charge significant collection fees for cases placed with collection agencies. As can be seen in the prior example, in addition to compromising one's code of ethics

there are significant financial risks of noncompliance.

Compliance Options

When applying for a sales and use tax license in PA you will be asked for the date of first taxable sale. For a non-compliant seller, the answer to this question may be a date in a prior filing period(s) which opens the door to those taxable sales prior to compliance. At this point the exposure to prior taxable sales becomes the seller's liability.

Retailers seeking compliance have several options: 1) Register with PA via MyPATH, and pay the applicable interest accrued from the non-remitted tax plus penalties assessed for non-compliance or, 2) Apply for a Voluntary Disclosure Agreement (VDA) which allows you to "confess" your unpaid taxes to Pennsylvania in exchange for having the noncompliance penalties removed. A VDA would potentially save \$1,500 penalties in the previous \$100,000 untaxed sales example. Note that once the registration process is started, a VDA is no longer possible.

Taxpayers can choose to disclose their identity when applying for a VDA (although a VDA can be withdrawn prior to identity disclosure), or they have the option of hiring a third party to request the case thereby maintaining anonymity. Either way, the taxpayer requesting a VDA will need to provide significant information to the Department of Revenue including verification that the Department has not contacted them regarding the tax liability in question. The VDA applicant will also waive all rights to petition the

Department's assessment, which is essentially committing to agree with Pennsylvania's assessment. Whether to file a VDA vs paying applicable penalties can be a judgement call depending upon facts and circumstances.

If you are a dog breeder in PA or are seeking to become one, you may be better served with knowledge regarding its sales tax code than the more interesting topic of Greco-Roman taxation history. Or perhaps you will be inspired to engineer new breeds if you're familiar with both. Either way, some would consider it wise counsel to care well for your dogs and remain compliant with your jurisdiction's tax decrees.

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