

West Virginia Department of Agriculture

Kent A. Leonhardt, Commissioner
Joseph L. Hatton, Deputy Commissioner



West Virginia Hemp Products and Kratom

With the passing of WV Senate Bill 220 effective June 9, 2023, all hemp and kratom product retailers, distributors, and manufacturers must be registered with the West Virginia Department of Agriculture (WVDA). Manufacturers of hemp products must register all products (with WVDA) that will be sold in West Virginia. Manufacturers of kratom products will begin registering all kratom products January 1, 2025. This does not exempt from registering as a kratom manufacturer.

Hemp and Kratom product Retailers:

Under SB220 the following hemp derived cannabinoids and all kratom products will be subject to an additional 11 percent tax (see attached memo from WV Tax Division).

Delta-10-Tetrahydrocannabinol (Delta-10-THC)

Delta-9-tetrahydrocannabinol (THC) <0.3% Total THC

Delta-8-tetrahydrocannabinol (Delta-8-THC)

Delta-9-tetrahydrocannabivarin (THCv)

Hexahydrocannabinol (HHC) (-)

Tetrahydrocannabiphorol (THCp)

All Kratom products

To ensure information is collected, please follow WV Tax Division instructions to register and obtain proof of good standing letter. Complete your tax information, attach your letter of good standing, and return via enclosed postage paid envelope by June 16, 2023.

More information will follow concerning Hemp and Kratom Rule updates. If you have any questions, please contact hempproducts@wvda.us or 304-558-2227.

mailing address: 1900 Kanawha Blvd. East, Charleston, WV 25305-0170

physical address: 217 Gus R. Douglass Lane, Charleston, WV 25312

telephone: 304-558-3550 • fax: 304-558-2203

www.agriculture.wv.gov

West Virginia Hemp and Kratom product Retailers

Name of Retail Store: _____

Physical Address of Store where Hemp/Kratom Products are Sold:

Note: If mobile or online, please include a mailing address

Mailing Address of WV Business Licensee:

Legal Name of Owner: _____

Email address: _____

Telephone #: _____

FEIN or TAX ID or SSN: _____

Letter of Good Standing Attached:

Name: _____

Signature: _____ **Date:** _____

Frequently Asked Questions

Hemp-derived cannabinoid or Kratom (HDK) Tax

What products are subject to the HDK tax?

Products that contain “hemp-derived cannabinoid” or kratom as an ingredient may be subject to the HDK tax as follows:

Kratom:

Kratom is defined as a psychoactive preparation that is composed of the crushed or powdered-dried leaves of the *mitragyna speciosa*, a yellow-flowered tropical tree which contains the alkaloids mitragynine and 7-hydroxymitragynine. Products containing any part of the leaf of the *mitragyna speciosa* plant are subject to tax.

Kratom products subject to tax are products marketed for human consumption and include, but are not limited to, food, food ingredients, dietary supplements or beverages.

Hemp-derived cannabinoids

Not all cannabinoids are subject to the HDK tax. The statute defines “hemp-derived cannabinoids,” which are subject to the HDK tax, as: Delta-9 tetrahydrocannabinol with a concentration of not more than 0.3 percent on a dry weight basis, Delta-8 tetrahydrocannabinol, Delta-10 tetrahydrocannabinol, hexahydrocannabinol, tetrahydrocannabiphorol, and tetrahydrocannabivarin. This would include cannabinoid products with Delta 8, Delta 9, Delta 10, HHC, THCP, and THCV.

Any product containing Delta 8, Delta 9, Delta 10, HHC, THCP, and THCV is subject to the HDK tax. Unlike with kratom, hemp-derived cannabinoid products do not have to be marketed for human consumption. Products may include food, food ingredients, dietary supplements or beverages, as well as, such as lotions, ointments, shampoos, or any other type of product for personal use.

I want to start a business selling hemp-derived cannabinoids or kratom products. What do I need to do?

You would first need to apply for a business registration certificate with the Tax Division. [Click here](https://business4.wv.gov/Pages/default.aspx) <https://business4.wv.gov/Pages/default.aspx> to establish a new West Virginia business or to bring your out-of-state company to the Mountain State. This WV One Stop Business Portal allows you to register with the Secretary of State, Tax Division, and WorkForce in one convenient location.

For more information on registering your business with the West Virginia Tax Division, please see [TSD 360 \(attached\)](#).

You would then need to submit an application for a hemp-derived cannabinoid or kratom products (HDK) permit with the Department of Agriculture. An application for an HDK permit can be found at the Department of Agriculture <https://agriculture.wv.gov/licenses/hemp-and-kratom-products/>.

A Letter of Good Standing from the WV Tax Division to the Department of Agriculture must be submitted along with the application for the HDK permit. A Letter of Good Standing request form and instructions on submission can be found at the Tax Division <https://tax.wv.gov/Business/GoodStanding/Pages/RequestforLetterOfGoodStanding.aspx>

I already have a West Virginia business registration certificate and want to sell hemp-derived cannabinoids or kratom products. Do I need to submit a new, or updated, business application?

No. You do not need to submit a new business application with the WV Tax Division or update your business registration certificate. However, you must submit your application with the Department of Agriculture, along with a Letter of Good Standing from the WV Tax Division to the Department of Agriculture. An application for an HDK permit can be found at the Department of Agriculture here, while a Letter of Good Standing request form and instructions on submission can be found at the Tax Division website. Once the Department of Agriculture has approved your permit, they will contact WV Tax Division and an account will be created for you.

Since I do not need to re-register or update my business registration certificate, how do I get an account to file the hemp-derived cannabinoid or kratom product tax?

The Department of Agriculture will provide a list of permitted retailers to the WV Tax Division which will be used to create accounts for each permit holder.

I have multiple locations. Do I need a Business Registration Certificate for each location?

A separate Business Registration Certificate certificate is required for each fixed business location from which property or services are offered for sale or lease. It is also required where customer accounts may be opened, closed, or serviced. The Business Registration Certificate certificate for each location is permanent until the business is relocated, closed or until the certificate is suspended, revoked, or canceled by the Tax Commissioner.

How do I get a Letter of Good Standing?

If you already have a [MyTaxes](#) account, just log into your MyTaxes account. On the home screen, click the "More" link, then click the link "Request Letter of Good Standing" in the "Letters" area. Complete the form and click submit.

If you are not currently registered for MyTaxes, you may register now by visiting our [MyTaxes website](#), and then selecting the "[Sign Up](#)" link.

To register with MyTaxes as a *Business*, you will need to provide:

- Your Identification Number (i.e. SSN, ITIN, FEIN)
 - Zip Code
 - Account Number
 - Account Type (i.e. Account number associated with specific tax type, such as your 8-digit Account number for your Business Registration account.)
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You will then be allowed to upload documentation, ask questions on the status of your account, or make and schedule payments. If you have any questions on registration or need assistance, please contact Taxpayer Services at (304) 558-3333 or toll-free at (800) 982-8297.

Once the Letter of Good Standing is issued, it will show up on your account. You may then print it in order to include with your retailer permit application to the Department of Agriculture.

How much is the hemp-derived cannabinoid or kratom product tax?

The tax on Hemp derived products is 11% of the retail sales price and is in addition to all other applicable taxes.

The tax on Kratom products is 11% of the retail sales price.

*This tax shall **not** be added by the retailer as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a customer. It may be included in the markup price of the product.

How do I file and pay the hemp-derived cannabinoid or kratom product tax?

This tax is required to be filed and paid electronically through the Tax Division's online portal. If you are not currently registered for MyTaxes, you may register now by visiting our [MyTaxes website](#), and then selecting the "[Sign Up](#)" link.

To register with MyTaxes as a *Business*, you will need to provide:

- Your Identification Number (i.e. SSN, ITIN, FEIN)
- Zip Code

- Account Number
- Account Type (i.e. Account number associated with specific tax type, such as your 8-digit Account number for your Business Registration account.)

You will then be allowed to upload documentation, ask questions on the status of your account, or make and schedule payments. If you have any questions on registration or need assistance, please contact Taxpayer Services at (304) 558-3333 or toll-free at (800) 982-8297.

How often and when will I file and pay the tax on hemp-derived cannabinoid or kratom products?

The tax will be reported and paid on a quarterly basis as follows: On the 20th day of January, April, July, and October for the preceding calendar quarter. For example, you must pay by April 20th for the January 1st-March 31st quarter.

Some of my products contain both hemp-derived cannabinoid products and kratom. Do I report these separately?

No. All products containing a hemp-derived cannabinoid will be reported as a hemp derived product, even if the product also contains kratom. Products containing kratom, but without hemp-derived cannabinoids that are subject to tax, will be reported as kratom.

Who should I contact at WV Tax Division if I have additional questions or need assistance?

For more information you can:

- **Call** a Taxpayer Services Representative at (304) 558-3333 or toll-free at (800) 982-8297
- **Email** taxhelp@wv.gov
- **Go Online** to tax.wv.gov



This publication provides general information and is not meant to be a substitute for tax laws or regulations.

Any person who is engaging in any business activity in the State of West Virginia must register with the West Virginia Tax Division before commencing business activities in the state. **Business activities are all activities and services a business enters into, directly or indirectly, with the intent to make money.** This includes all activities of this state and its political subdivisions which involve the sale of tangible personal property or the rendering of a service when such service activities compete with or may compete with the activities of another person.

Churches and nonprofit organizations are not considered to be entities engaged in business or subject to any other tax laws solely because they complete the West Virginia New Business Registration Application. Please contact Taxpayer Services to learn more about nonprofit activities.

Persons engaged in the following activities are not required to register if they engage solely in these activities.

- Judicial sales directed by law or court order.
- Sales for delinquent taxes of real or personal property.
- Licensed charitable raffles.
- Horse or dog race meetings by any licensed racing association under W. Va. Code § 19-23-1.
- Operation of the pari-mutuel system of wagering during a licensed horse or dog race meeting.
- Sale of commodities during a horse or dog race meeting.
- Occasional or casual sales of property or services by persons not engaged in a business activity.
- Any person engaging in a business activity who meets all three following conditions:
 - Is not required by law to collect or withhold a tax;
 - Does not claim exemption from payment of the West Virginia Consumers Sales and Service Tax or Use Tax; **and**
 - Had a gross income from business activity of \$4,000 dollars or less from operations in all states during the income tax year most recently completed.

Businesses that are exempt from registering with the Secretary of State may still be required to register with the Tax Division. Please contact Taxpayer Services to learn more.

To register with the West Virginia Tax Division you must complete the West Virginia New Business Registration Application (Form WV/BUS-APP).

You may also register online at the Secretary of State's website: Business4WV.gov.

By appointment only, you may obtain the application in person at any Tax Division office located throughout the state.

Engaging in business within the State of West Virginia without obtaining a Business Registration Certificate when required by law is a serious offense and could subject you to multiple fines: \$1,000-\$10,000 for operation without a business license (W. Va. Code § 11-9-12) and a penalty of \$100 a day for each day after not operating with a license for 30-days. (W. Va. Code § 11-9-11).

Filing Fees and Certificates

The fee for obtaining a Business Registration Certificate is \$30.00. Certain organizations may be exempted from paying the fee. For more information, see page 2 of the [Business Registration booklet](#).

A separate certificate is required for each fixed business location from which property or services are offered for sale or lease. It is also required where customer accounts may be opened, closed, or serviced. The certificate for each location is permanent until the business is relocated, closed or until the certificate is suspended, revoked, or canceled by the Tax Commissioner.

For more information, you can:

- Call a Taxpayer Services Representative at (304)558-3333 or toll-free at (800) 982-8297
- Email taxhelp@wv.gov
- Go Online to tax.wv.gov

The following is a list of types of businesses that must meet special registration requirements before the West Virginia Tax Division can issue a Business Registration Certificate.

- **Corporations, Limited Partnerships, Limited Liability Companies, Voluntary Associations** - Must first register with the West Virginia Secretary of State. Contact the Secretary of State for their publication on filing requirements.
- **Collection Agencies** - Must file an approved surety bond of \$5,000.00 with the West Virginia Tax Division for each West Virginia location. The completed surety bond must accompany the completed West Virginia New Business Registration Application (Form WV/BUS-APP). Bond forms can be obtained by calling our automated form ordering system at 1-800-422-2075.
- **Employment Agencies** - Must first obtain a letter of approval from the Labor Division of the West Virginia Department of Commerce, Labor and Environmental Resources. The letter of approval must accompany the completed West Virginia New Business Registration Application.
- **Transient Vendors** - Must file an application for a Transient Vendors License (TVL-1) and post a \$500.00 bond or certified check with the West Virginia State Tax Division. This information should accompany the completed West Virginia New Business Registration Application (Form WV/BUS-APP). For additional information on Transient Vendors, please request or review Publication TSD-317. -
- **Sales of Drug Paraphernalia** - Businesses selling drug paraphernalia must complete and submit an Application for Drug Paraphernalia for each location selling drug paraphernalia. The cost is \$150.00 per location. In addition, Drug Paraphernalia Affidavits must be completed for each employee that will be selling drug paraphernalia. For more information on Drug Paraphernalia licensing, please review DRUG-3 or contact Taxpayer Services.
- **All Contractors** - Must obtain a contractor's license from the Labor Division of the West Virginia Department of Commerce, Labor and Environmental Resources. Testing is required.
- **Non-Resident Contractors** - Must also register with the West Virginia Tax Division under the Consumers Sales and Use Tax laws prior to engaging in the performance of a contract in this state. They must file a Cash Bond or Corporate Surety Bond for each contract or an Umbrella Corporate Surety Bond. For additional information see Publication TSD-330.
- **Telemarketers** - Must file approved surety bond of \$100,000 and the Telemarketer Registration Form.

This list is not intended to be all inclusive. Persons engaging in or performing other business activities in West Virginia may have to satisfy other special requirements with other State Agencies before commencing or while engaging in a business activity in this State.

If you have employees, the West Virginia Tax Division will send the Division of Employment Security and the Workers Compensation Fund your name and address and other pertinent information. These agencies will contact you with all the necessary forms and paperwork to fulfill their requirements

Not all taxes are collected by the West Virginia Tax Division. You may be required to register with other agencies.

Counties or municipalities may have rules, regulations and registration requirements which may affect your business. We recommend you contact the local mayor's office for information on city taxes and registration requirements and the county assessor's office for information on county taxes.

Choosing the type of business ownership is a big decision which will affect how the business is owned and operated, who will be liable for the debts and obligations of the business, who will have a right to the assets of the business, and your tax status.

For assistance in making these important decisions, The Small Business Development Center, a division of the West Virginia Development Office, will provide managerial and technical assistance; financing and loan packaging information; and education and training in a variety of areas.

Secretary of State
Corporations Division
Telephone: (304) 558-8000
Fax: (304) 558-5758
<http://www.sos.wv.gov>

West Virginia One Stop Business Center
13 Kanawha Blvd
Charleston, WV 25302
Telephone: (866) 767-8683
<https://business4.wv.gov/>

West Virginia Development Office
Small Business Development Center
Telephone: (304) 558-2960
Toll-free: 1-888-WVA-SBDC
Fax: (304) 558-0127
<https://westvirginia.gov/divisions/small-business-development-center/>

West Virginia Offices of the Insurance Commissioner
Telephone: (304) 558-6279
Fax: (304) 558-0671
<http://www.wvinsurance.gov/workers-compensation>

Workforce West Virginia
Unemployment Compensation Division
Telephone: (304) 558-2677
Fax: (304) 558-1324
<http://www.workforcewv.org>

West Virginia Division of Labor
Telephone: (304) 558-7890
Fax: (304) 558-2273
<https://labor.wv.gov/>

West Virginia Division of Forestry
Telephone: (304) 558-2788
Fax: (304) 558-0143
<https://wvforestry.com/>