



SALES AND USE TAX FOR PUBLIC SCHOOLS

This publication answers some common questions regarding West Virginia sales and use tax laws pertaining to public schools. This includes any school or institution in this state which qualifies as a nonprofit or educational institution subject to the West Virginia Department of Education and the Arts, the board of Trustees of the University System or the board of directors for colleges; for example, colleges, universities, institutes of technology, trade or vocational schools. Publication [TSD-312A](#) discusses private elementary and secondary schools. This publication is to provide general information and is not a substitute for tax laws or regulations.

PUBLIC SCHOOL OBLIGATIONS

- Each public elementary and secondary school should review its tax practices to ensure it is in compliance with sales and use tax laws of this state.
- Each school must obtain a business registration certificate from the State Tax Department to establish a sales tax account for remittance of taxes collected upon taxable sales. Schools that directly purchase goods or services must also obtain a business registration certificate to claim exemption from tax upon their purchases.
- Schools may obtain registration forms and information by visiting www.tax.wv.gov or contacting the Taxpayer Services Division as indicated at the end of this publication.

SALES, GENERALLY

- *All sales, leases and services in West Virginia are taxable* unless there is a specific exemption in the sales tax law. The burden of proving that a sale was exempt from tax is upon the seller. School officials should ensure that sales tax is imposed on all sales of items that are not specifically exempt.
- An additional municipal sales or use tax not greater than one percent may also apply if you are located within the boundaries of a municipality that imposes a municipal sales and use tax. For a list of municipalities, effective dates and rates, visit our website at:

<https://tax.wv.gov/Business/SalesAndUseTax/Pages/SalesAndUseTax.aspx>

- Sales tax applies not only to sales by schools, but also to sales by school employees, school-related organizations, like the PTA, and businesses when the sales are made at or through the schools or school children. Retail sales in this state by out-of-state businesses (including mail order sales) are subject to use tax when the out-of-state retail business has agents or other physical presence in the State. When school officials and school personnel assist these businesses in making sales and receive benefits from the sales, they become agents of the businesses.
- The safest way to ensure that tax is imposed is for the school to collect and remit the tax whenever the school, teachers, students or anyone acting on behalf of the school are involved in making a taxable sale.

SALES OF ITEMS OTHER THAN FOOD

- The following sales by public schools are exempt from state and municipal sales tax:
 - (1) Textbooks, workbooks, instructional aids, and standardized examination materials required in any public elementary or secondary school in this State are exempt per se from sales and use tax. However, sales of other school materials, school supplies and books that are not required textbooks are taxable, as are sales of jewelry, candy, clothing items, posters, magazines, greeting cards, and all other items not specifically exempt. The school must keep sufficient books and records to differentiate between taxable and exempt sales.
 - (2) School newspapers and yearbooks compiled and edited by students of the school are exempt from sales tax when sold to students or school employees. However, such sales are taxable when sold to others. Sales of advertising space in school newspapers and yearbooks are exempt from sales tax.
 - (3) Rentals of locks, lockers, storage space, clothing and other materials and equipment owned by public schools and furnished solely to students of the school are exempt from sales tax.
 - (4) Class dues and library fines are exempt from sales tax.
 - (5) Sales of tickets for activities sponsored by elementary and secondary public schools located within this State are exempt from sales tax. This exemption applies only to sales of tickets to such

activities; it does not apply to sales of anything else, such as sales of merchandise. Sales of tickets to athletic, cultural, social and fund raising events if they are sponsored by the school are exempt from sales tax. Sales of tickets to such events are taxable when they are not sponsored by the school even if the event occurs on school property. For an activity to be sponsored by a school, it should be an activity which is organized solely to benefit the school's students, and an activity that would not otherwise occur.

EXAMPLE:

Sales of tickets for admission to a school carnival held by parents to raise money for such things as art supplies and air conditioners for classrooms would be exempt as fund raising events if the carnival was held on the school grounds and the carnival was promoted as an activity to raise money for the school or for some school related purpose, such as a school sponsored class trip. On the other hand, sales of tickets to carnivals, concerts, circuses, ball games and other such events are subject to tax when conducted by businesses for profit even if the school receives a share of the proceeds from the event and even if the event occurs on school property.

- (6) Casual and occasional sales by a PTA or similar organization are exempt if the organization
- (a) has a current business registration certificate;
 - (b) is exempt from federal income taxes under Internal Revenue Code § 501(c)(3) or § 501(c)(4); and
 - (c) is an organization with no paid employees and whose gross income from fund raisers, less reasonable and necessary expenses to raise such gross income (or the tangible personal property or services purchased with such net income), is donated to the public school.

If any of the foregoing conditions are not met, casual and occasional sales are taxable.

Sales of such items as class photographs, class rings and school jackets are taxable when sold by for-profit organizations and individuals, because for-profit organizations and individuals are not exempt from federal income taxes under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code. To qualify as a casual and occasional sale, a fund raiser may last no longer than 84 consecutive hours (i.e., three and one-half days) and no more than six such fundraisers may occur in any consecutive twelve-month period.

EXAMPLE:

Moe Doe, a professional photographer, takes class photographs for various schools as part of his photography business, which is subject to sales tax. Moe has a current business registration certificate and employs a secretary/receptionist. Sales tax must be charged on the sales price of the class photographs for each of the following reasons. First, since Moe is in the business of photography, his services are not casual and occasional sales. Second, Moe is not a PTA or similar organization. Third, because he is a professional photographer, Moe is not a qualified Section 501(c)(3) or Section 501(c)(4) organization. And fourth, because taking class photographs is part of his business, Moe does not donate all his earnings from such activities to the schools. The fact that Moe's services are provided to public school students does not make his services exempt from sales tax.

For more information, see [TSD-320](#).

SALES OF FOOD

- Food sold by public schools, school sponsored parent-teacher associations or school sponsored student organizations, to students enrolled in the school or to employees of the school during normal school hours is exempt per se from sales tax.
- Two types of organizations may make *exempt* sales of food *during normal school hours*:
- Any public school subject to regulation by the West Virginia State Board of Education; or
- Any parent-teacher association or student organization sponsored by a public school subject to regulation by the West Virginia State Board of Education.
- Sales of food *outside normal school hours* are also *exempt* if made by a school-sponsored student or parent-teacher association or similar organization at athletic, cultural, social or fund raising events when the proceeds of such sales, after payment of reasonable expenses, are donated to the school or used to purchase tangible personal property or services for the school. Examples of such exempt

sales are bake sales held by the school's band boosters to raise money for new uniforms, and concession sales of hot dogs, popcorn and soft drinks by parents at athletic events to raise money for athletic equipment.

- The same exemption applies to municipal sales and use taxes.
- The following sales of food are *always subject to sales tax*:
 - Sales of food through vending machines; and
 - Sales of food to the public during normal school hours unless such sales meet all the conditions listed in Item (6) in the previous section on "Sales of Items Other Than Food."

**PURCHASES,
GENERALLY**

- All purchases of tangible personal property and services by public schools are exempt from sales tax if the school provides a properly completed Certificate of Exemption [[SSTGB Form F0003](#)] to the vendor.
- The same exemption applies to municipal sales and use taxes.

**SALES TAX MUST BE
SEPARATELY STATED**

- When a taxable sale occurs, the sales tax generally must be stated separately from the sales price.
- In some situations, however, such as nonexempt ticket sales, admission fees and food sold at school related events such as ball games, the sale price may include the sales tax. In the case of tickets, either the sales price and sales tax must be separately stated on the ticket, or the ticket or a sign posted in plain view must state that sales tax is included in the ticket price. With respect to admission charges where tickets are not used and sales of food at school related events, a sign may also be posted in plain view stating that sales tax is included in the sales price.
- When the sign method is used, the sign must be legible and visible to a person with normal vision from a distance of 20 feet. When the sales price includes the sales tax, the amount of sales tax which must be imposed on each sale is as follows:

Divide the total amount received by 1.06 (or more if municipal sales tax applies) and multiply that amount by .06 (or more if municipal sales tax applies), then round the resulting amount up to the next highest cent.

This last figure is the amount remitted to the State on the sale.

- For a list of municipalities, effective dates and rates, visit our website at:

<https://tax.wv.gov/Business/SalesAndUseTax/Pages/SalesAndUseTax.aspx>

**ASSISTANCE AND
ADDITIONAL
INFORMATION**

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS
(1-800-982-8297)**

Or visit our website at:

www.tax.wv.gov

File and pay taxes online at:

<https://mytaxes.wvtax.gov>
