

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

Obligations

Each elementary and secondary school should review its tax practices to ensure it is in compliance with the sales and use tax laws of this state. Each school must register with the Tax Division to establish a sales tax account for remittance of taxes collected upon taxable sales. Schools that directly purchase goods or services must also register to claim exemption from tax upon their purchases. Schools may obtain registration forms and information by visiting tax.wv.gov

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. 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 by 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.

Sales of Items Other Than Food

The following school sales are exempt from sales tax:

- 1) Sales of textbooks, workbooks, instructional aids and standardized examination materials required in any 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 which are taxable. Additionally, sales of non-required jewelry, candy, clothing items, posters, magazines, greeting cards and all other items not specifically exempt.
- 2) School newspapers and yearbooks compiled and edited by students of the school as well as sales or advertising space within are exempt when sold to students or school employees. However, sales of the yearbooks and newspapers are taxable when sold to others.
- 3) Rentals of locks, lockers, storage space, clothing and other materials and equipment owned by private schools and furnished solely to students of the school.
- 4) Class dues and library fines.
- 5) Sales of tickets for activities sponsored by elementary and secondary private schools located in this State are exempt. This exemption does not apply to sales of anything else, such as sales of merchandise. Sales of tickets to athletic, cultural, social and fundraising events are exempt if they are sponsored by the school. Sales of tickets to such events would be taxable if they were not sponsored by the school even if the event occurred on school property. For an activity to be sponsored by a school, it must be an activity which was organized solely to benefit the school's students, and which would not otherwise occur.
- 6) Fundraisers by not-for-profit volunteer school support groups.

A not-for-profit volunteer support group for a public or private school in this State may hold fundraisers for the school and not collect sales tax when:

- (a) The fundraisers are held no more than 18 times during any 12-month period;
- (b) Each fundraiser lasts for no more than 14 consecutive days; and
- (c) The sole purpose of the fundraiser is to obtain revenue for the function and activities of the school.

The school fundraiser must be sponsored by a not-for-profit volunteer support group for the school. The not-for-profit volunteer school support group does not need a determination letter for the Internal Revenue Service that the organization is exempt for federal income tax purposes. However, the not-for-profit volunteer school support group must hold a valid current West Virginia business registration certificate. The not-for-profit volunteer school support group may assert the purchases for resale exemption from sales tax when it buys merchandise to be sold as qualified fundraiser events. Schools and not-for-profit volunteer school support groups must keep appropriate records.

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 and are not qualified not-for-profit volunteer school support groups.

Sales of Food

Food sold by 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. The same exemption applies to municipal sales and use taxes.

Organizations that may make exempt sales of food during normal school hours:

- Any public, private, parochial or denominational school which is subject to regulation by the West Virginia State Board of Education; or any parent-teacher association or student organization which is sponsored by a public, private, parochial or denominational school which is 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.

Sales of food by vending machines and sales of food to the public during normal school hours are always subject to sales tax unless such sales:

- (a) Are held no more than 18 times during any 12-month period;
- (b) Last for no more than 14 consecutive days; and
- (c) The sole purpose of the sale is to obtain revenue for the function and activities of the school.

To be exempt, all three criteria must be met

Purchases

All purchases of tangible personal property, or taxable services by schools which are used or consumed in rendering professional education services are subject to sales tax unless the school provides a properly completed Certificate of Exemption ([Form F0003](#)) to the vendor. The burden of proving that a sale was exempt from tax is upon the seller. The same exemption applies to municipal sales and use tax.

When a taxable sale occurs, the sales tax generally must be stated separately from the sales price.

In some situations, including but not limited to ticket sales, admissions fees and food sold at school related events, the sale price may include the sales tax. In these instances, a sign or designation must be posted in plain view stating the sales tax is included in the 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 must be imposed on each sale 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 final amount is how much should be remitted to the State on the sale.

Summer Camp Fees

Programs, locations, and length of stay may differ, but when a fee is charged for participation in such programs, all or part of the fee is subject to the West Virginia Sales and Use Tax. There is an exemption for tuition fees at education summer camps. Educational summer camps are those where the participants spend a substantial amount of time receiving instruction. Education includes all subjects traditionally taught in school, along with instruction for the intellectual, moral, and physical development of the campers. Scout camps, 4-H camps, music, art, science, computer, religious study, math, and other similar camps are examples of educational summer camps. In order to qualify for exemption, tuition must be separately stated. For example, if a week of camping, including tuition, food, lodging, and other services costs \$100, sales tax is due on the entire \$100. If, however, the \$100 fee is broken down as \$25 for tuition, and \$75 for all other goods and services, tax is due on \$75 only. Examples of taxable charges are those for food, lodging, equipment, clothing, books and other study materials not directly related to the educational nature of the summer camp.

Camps for the primary purposes of training in athletics, sports training or physical conditioning are not considered educational summer camps and all fees charged are subject to sales tax. Also, summer camps primarily related to paramilitary training or animal training are not exempt.

Private Schools

Private schools recognized by the State of West Virginia as institutions of state approved kindergarten programs, elementary or secondary education and which substitute for the requirement of compulsory public school attendance are, to the extent of the instruction provided, rendering a professional education service. **Private schools which provide professional education services are not required to collect sales tax on the tuition they charge for those services.** However, unless a private school also satisfies the requirements of the following section or another specific exemption, it must pay the sales or use tax on all purchases of tangible personal property or taxable services which are used or consumed in rendering these professional education services.

In order for a private school's purchases to be exempt from the sales tax and the use tax, the school must be:

- (1) a corporation or organization which has a current Business Registration Certificate;
- (2) exempt from federal income taxes under Internal Revenue Code § 501(c)(3) or § 501(c)(4); and,
- (3) an elementary or secondary school which has a regular faculty and curriculum and a regularly enrolled body of students in attendance at the place in this State where its professional education service activities are regularly carried on.

If all three conditions are met, the private school qualifies for an exemption which applies only to services, equipment, supplies and materials used or consumed in the activities that qualify the school for exemption from federal income taxes. This exemption does not apply to purchases of gasoline or special fuel or to purchases of tangible personal property or services to be used or consumed in the generation of unrelated business income.

The following purchases are exempt from tax under this and other exemptions.

- (1) Purchases of textbooks, workbooks, instructional aids and standardized examination materials required to be used in any school of this State.
- (2) Purchases of library books, newspapers and magazines.
- (3) Tangible personal property and taxable services which are purchased for resale by the school are exempt.
- (4) Long-term leases of motor vehicles. A long term lease is a lease for a period of 30 or more consecutive days. Short-term leases do not qualify for this exemption.
- (5) Purchases of office or administrative materials, supplies, equipment or services used or consumed in the activities which qualify the school as exempt under Internal Revenue Code § 501(c)(3) or § 501(c)(4).
- (6) Purchases of educational supplies and equipment.
- (7) Purchases of building materials, supplies or equipment, including janitorial materials, supplies, equipment and services if they are to be installed in, affixed to or incorporated into the real property used by the school for its educational activities.
- (8) Purchases of repair parts or repair services if the property being repaired is used or consumed in the activities which qualify the private school as exempt under Internal Revenue Code § 501(c)(3) or § 501(c)(4).
- (9) Purchases of athletic equipment and supplies.

In order to claim these exemptions on their purchases, private schools must present a current, properly completed Certificate of Exemption [Form F0003](#) to their vendors, except that no certificate is required for the purchase of required textbooks and other required materials listed in item (1) above.

An additional municipal sales or use tax not greater than one percent (1%) 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 tax.wv.gov

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