



SALES AND USE TAX FOR PRIVATE SCHOOLS

This publication answers some common questions regarding West Virginia sales and use tax laws pertaining to private 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-312](#) discusses public elementary and secondary schools. This publication is to provide general information and is not a substitute for tax laws or regulations.

PRIVATE SCHOOL OBLIGATIONS

- Each private 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 register with 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 register to claim exemption from tax upon their purchases.
- Schools may obtain registration forms and information by visiting www.tax.wv.gov or by 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 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.
- Private schools recognized by the State of West Virginia as institutions of 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. Those providing State-approved kindergarten programs are likewise rendering professional education services. 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 some other specific exemption, it must pay the sales tax or use tax on all purchases of tangible personal property or taxable services which are used or consumed in rendering these professional education services.

SALES OF ITEMS OTHER THAN FOOD

- The following sales by private schools are exempt from sales tax:
 - (1) Sales of textbooks, workbooks, instructional aids, and standardized examination materials required in any private 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 not required textbooks are taxable, as are sales of 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 are exempt 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 private 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 private schools located in 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 are exempt if they are sponsored by the school. Sales of tickets to such events would be taxable if 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 which 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) Fund raisers 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 fund raisers for the school and not collect sales tax when:

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

The school fund raiser 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 under Internal Revenue Code Sections 501 (c)(3) or (4). 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 fund raiser events.

Schools and not-for-profit volunteer school support groups must keep appropriate records to support a claim of exemption under W. Va. Code § 11-15-9q.

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

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 of his earnings from such activities to the schools. The fact that Moe's services are provided to private school students does not make his services exempt from sales tax.*

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

SALES OF FOOD

- Food sold by private 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.
- Two types of organizations may make *exempt* sales of food *during normal school hours*:
 - Any 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 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. 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 following sales of food are always subject to sales tax:
 - Sales of food by 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, or taxable services by private schools which are used or consumed in rendering professional education services are subject to sales tax unless a specific exemption in the sales tax law applies or the private school satisfies certain requirements discussed elsewhere in this publication. 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.

PURCHASES OF ITEMS OTHER THAN FOOD

- In order for a private school's purchases to be exempt from the sales tax and the use tax, the school must meet all of the following conditions; it must be:
 - (1) a corporation or organization which has a current Business Registration Certificate; and,
 - (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 satisfied, 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 as defined in Internal Revenue Code § 513.
- 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.
 - (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 [[SSTGB 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.

PURCHASES OF FOOD

- Purchases of food sold during normal school hours are exempt from the sales and use taxes. All other purchases are taxable unless a specific exemption (other than the purchase for resale exemption) is available. An exemption may be claimed by presenting a properly completed certificate of exemption to the vendor.
- The same exemption applies to municipal sales and use tax.

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>
