

Sales Tax Information for Public and Private and Elementary and Secondary Schools



Utah State Tax Commission

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Introduction

This publication provides tax information relating to public and private elementary and secondary schools. General sales and use tax information is available in Publication 25.

Tax Commission publications are reference tools. They are not all-inclusive and should not be used as legal references.

Tax laws may change due to legislative action. Changes to law will supersede any information in this publication.

Definition of School

School is defined as a public school district, a public elementary school or secondary school, electronic high school or a private school that provides instruction for one or more grades kindergarten through 12.

Who Must Pay or Collect Sales Tax?

Public Schools

Utah law provides for a sales tax exemption on sales or rentals to a public school. However, many sales or rentals by public schools and admissions or user fees are taxable. Exceptions are noted in this publication. The school must collect tax on its taxable sales or rentals of tangible personal property to students or to the public.

To qualify as a sale made to a public school, the purchase must be made with the school's funds. A purchase does not qualify for exemption if a school employee pays for the purchase with personal funds, even if the school employee is reimbursed for the purchase by the school.

Private Schools

Sales made to or by a religious or charitable institution are exempt from sales tax if the sale is made in the conduct of the institution's regular functions or activities. To qualify for this exemption, a school must qualify under section 501(c)(3) of the Internal Revenue Code and it must obtain a sales tax exemption number from the Tax Commission.

A seller must collect sales tax on purchases by a qualified 501(c)(3) private school unless the school presents the seller with a current exemption certificate, and:

1. the purchase totals \$1,000 or more, or
2. the purchase, regardless of amount, is made pursuant to a contract between the seller and the school, or
3. the purchase is for public utilities.

A school may apply for a refund directly from the Tax Commission for qualifying purchases on which the seller collects sales tax. Applications for refunds may not be submitted more frequently than once each month.

Private schools which do not qualify as 501(c)(3) organizations are eligible for the sales tax exemptions pertaining to fundraisers, sales of food, educational supplies and materials, transportation and clothing as outlined in this publication. Such private schools must pay sales tax on non-exempt rentals and purchases of tangible personal property (such as construction materials) and collect sales tax on non-exempt sales.

Exemption Certificate

All qualifying tax exempt purchases made by private schools must be supported by a completed and signed Tax Commission form TC-721, Exemption Certificate. The school's assigned sales tax number must be entered on the form.

For public schools, a completed TC-721, purchase order or school district check may be used to evidence the exemption.

PTA

Charitable organizations may purchase and sell items tax free when the transactions are made in the conduct of the organization's regular functions. The Parent Teacher Association is a charitable 501(c)(3) organization whose purchases and sales are exempt from sales tax when made in the conduct of their charitable functions and activities serving Utah's public schools.

The PTA's sales tax exemption does not extend to a third party business that sells items through the PTA, even if the PTA receives some financial benefit from the sales.

Sales Tax License

All sellers required to collect sales tax must have a sales tax license issued by the Tax Commission. The Tax Commission recommends a school district obtain the tax license and report all sales by schools within the district. However, each school engaging in taxable sales may obtain its own tax license. You can apply for a license online at tap.utah.gov (Tax Commission only) or osbr.utah.gov (multiple Utah agencies), or by submitting form TC-69, *Utah State Business and Tax Registration* (Tax Commission only).

Taxable Transactions

The following are examples of transactions subject to sales tax.

- Sales of yearbooks, student directories, atlases, day planners and spirit packs.
- School supplies, i.e., paper, pens, paper clips, staples, etc.
- Sales from concessions stands.
- Admissions to swimming pools and charges to the public for the rental of towels, equipment or lockers (if the lockers are tangible personal property). However, charges for swimming or diving lessons are not subject to tax.
- Sales of items from a vending machine by private sellers. If the vending machine is operated by an outside seller who pays the school a commission or fee for placing the machine in the school, that seller is responsible for reporting and remitting the tax on the vending machine sales.
- Charges for school pictures. If an outside photographer sells the pictures and collects payment, the photographer is responsible for collecting and remitting the sales tax on these transactions.
- Sales of supplies or rental of school equipment for community education classes.
- Book sales (other than textbooks) from outside sellers. Group orders placed through the school for individual students are taxable. When the school places the order with the bookseller and pays with school funds, the school must collect sales tax from the student and remit the tax to the Tax Commission.
Alternatively, if individual orders and payments are merely collected by the school and forwarded to the bookseller, the bookseller is required to remit the sales tax to the Tax Commission.
- Sales of items prepared, produced or manufactured by the students for sale to other students or the public. For example, items manufactured for sale by students in a junior achievement program or in a special class are taxable. The raw materials used as component parts or ingredients of the final taxable product may be purchased by the student or student sponsor tax free. However, use of the exemption requires the purchaser to obtain a sales tax license and to file sales tax returns.

Non-taxable Transactions

The following are examples of transactions that are not taxable.

- Sales of textbooks, textbook rental fees, laboratory fees, laboratory supplies, and other educational supplies required and sold to students by the school.
- Charges for use of the school's copy machine by students where the copies are for use in classes or class projects.
- Sales of photocopies.
- Sales of school uniforms required by private or parochial schools and sold by the schools are exempt. Uniforms purchased directly from an outside seller are subject to sales tax.
- Amounts charged, collected and retained by the school for admissions to athletic events, school dances, school plays or other school related activities.
- Amounts charged by the school and passed through to a nonprofit organization or association authorized by a school board or governing body of a private school to organize and direct a competitive secondary school activity.
- Participation or sign up fees for drill team, cheerleading, band, athletics and other student activities. However, if the fee includes purchase or rental of non-exempt clothing or equipment, those sales and rentals are subject to sales tax.
- Sales or rentals of safety equipment, fees to recondition safety equipment, or sales of clothing a student is specifically required to wear as a condition of participation in a school-related event or activity and is not readily adaptable to general or continued use to replace ordinary clothing. If the fee for clothing and equipment can be waived under Utah fee waiver rules, it is exempt. In cases where the fee covers both non-taxable participation fees and taxable sales or rentals, the taxable portions must be separately stated or the entire amount is subject to tax.
- Transportation charges for official school activities.
- Fees charged to students to participate in athletic clinics or cheerleading clinics.
- Fines charged for overdue library books.
- Charges for advertisements in school publications.
- Charges to parents for use of the school-operated nursery taught by high school students under the supervision of a faculty member.
- Charges for parking permits.
- Charges for class schedule change fees.
- Fund-raising sales made by public or private elementary or secondary schools or their students are exempt if the purpose of raising funds is to purchase equipment or materials, or to provide transportation. To qualify for the exemption, the activity must meet all of the following conditions:
 1. The activity must be a part of an officially sanctioned school activity conducted in accordance with a formal policy adopted by the school or district governing the authorization and supervision of fund-raising activities;
 2. The funds may not be used to directly or indirectly compensate an individual teacher or other personnel; and
 3. The revenues from the fund-raiser must be deposited in a dedicated account controlled by the school or district.
- The sale of coupon books (e.g. Happenings books) by students or school organizations.
- Sales of food, food ingredients, or prepared food served by public and private elementary and secondary schools if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals.

- Sales of food, food ingredients, or prepared food served by qualified religious or charitable institutions if the meals are not available to the general public, including prepaid meals that are part of a student meal plan.
- Food sales by the school from vending machines owned or leased and operated by the school if the proceeds from the sales are deposited into the school or district lunch or meal fund.
- Sales of discount cards by a school to students that enable the students to make purchases from an outside seller at a discount. If the discount card is sold by the seller offering the discount, then the sale of the card is taxable.

Purchases of Construction Materials by Public Schools

Construction materials purchased by or on behalf of public school systems are exempt from sales tax if the construction materials are clearly identified and installed or converted to real property owned by the institution.

Sales tax publications provide general guidance only. They do not contain all sales or use tax laws or rules. If you need additional information, call (801) 297-7705 or 1-800-662-4335, ext. 7705 (outside the Salt Lake area), or email taxmaster@utah.gov.