

DEPARTMENT OF STATE REVENUE

Information Bulletin #32
Sales Tax
June 2023
Effective Date: May 4, 2023
(Replaces Bulletin #32, dated March 2023)

SUBJECT: Public School Corporation Purchases and Sales

REFERENCES: [IC 6-2.5-5-22](#); [IC 6-2.5-5-23](#); [IC 6-2.5-5-25](#); [IC 6-2.5-5-26](#); [45 IAC 2.2-5-46](#); [45 IAC 2.2-5-47](#); [45 IAC 2.2-5-55](#); [45 IAC 2.2-5-58](#)

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SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this bulletin has been updated to reflect changes to the selling rules for nonprofits in Senate Enrolled Act 417 (2023).

INTRODUCTION

This information bulletin sets out guidelines and instructions to be followed by public school corporations administering grades 1 through 12 and school organizations in determining the applicability of Indiana sales tax related to acquisitions of or sales by the school corporation or organization.

REGISTRATION OF PUBLIC SCHOOL CORPORATIONS AND SCHOOL ORGANIZATIONS

Indiana public school corporations and school organizations that acquire tangible personal property for resale and subsequently transfer that property to others for consideration in the ordinary course of business must obtain a Registered Retail Merchant Certificate (RRMC) in the name of the public school corporation or school organization. An application for an RRMC must be made online by visiting the State of Indiana's INBiz website, which allows businesses to register with multiple state agencies, at inbiz.in.gov.

ACQUISITION OF TANGIBLE PERSONAL PROPERTY

By School Corporations

Purchases of tangible personal property are exempt from the sales tax if the property is acquired by a school corporation and is used to carry on and further the educational purposes of the school corporation. The purchase must be invoiced to and paid directly by the school corporation.

This exemption applies to purchases of tangible personal property that is acquired for incorporation into a school building that is being constructed by a school corporation.

By School Organizations

School organizations, clubs, and groups that are under the control of a school corporation and whose funds are accounted for through an extracurricular activities account may use the exemption number of the school corporation to make qualified purchases exempt from sales tax. Such purchases may be made **only** where payment is made by an extracurricular activities account **and** the property purchased is to be used by the organization for purposes other than in connection with social activities.

If the school organization is not under the control of a school corporation, the organization must register for an RRMC and provide the registration number assigned by the department on Form ST-105, General Sales Tax Exemption Certificate, when it's submitted to vendors to validate an exemption from sales tax on the purchase of otherwise taxable tangible personal property.

School organizations may not make purchases exempt from sales tax when such purchases are for the personal ownership or use of individual members of the organization or if such purchases will be used in connection with social activities of the organization such as parties, dances, and picnics conducted by such organizations.

By Teachers

Purchases of tangible personal property by teachers for use in their classrooms are subject to sales and use tax. This is true even though the teacher may use the funds allotted to teachers to purchase classroom supplies. To be exempt from sales tax, the purchase must be invoiced to and paid directly by the school corporation.

SALES OF TANGIBLE PERSONAL PROPERTY

By School Corporations

Meals

Prior to July 1, 2023, sales of school meals are exempt from sales tax if the seller is a school corporation containing students in any grade, 1 through 12; the purchaser is a student or school employee; and the school furnishes the food on the serving school's premises. However, effective July 1, 2023, all sales of meals by Indiana public school corporations are exempt, regardless of to whom the food is sold. This exemption also extends to the sale of school meals prepared by a private caterer provided the meals are served on the school's premises and the caterer is merely acting as an agent for the school.

Similarly, sales of food and drinks through a vending machine will be granted exemption **only** in the following instances:

- The vending machine is located in the school cafeteria or lunchroom; and
- The items are being sold to students or school employees who are purchasing such food or drinks in lieu of purchasing the prepared meals furnished by the school.

Effective May 4, 2023, everything sold by a school corporation through a vending machine will be exempt if the school corporation owns and controls the vending machine, regardless of where it is located on a school's campus or to whom the food or drink is sold (e.g., vending machines located on the exterior of the school's property or in a staff breakroom). However, if a third party owns and operates the vending machine, then whether an item sold is subject to sales tax will be dependent upon whether it falls under any of the categories of taxable items (such as candy, soft drinks, etc.) excluded from the definition of exempt food and food ingredients.

School Bookstores

The sales tax shall not apply to sales by bookstores of tangible personal property intended primarily for the educational purpose of the organization and not used in carrying on a private or proprietary function.

The sales of textbooks and supplies by parochial, public, or private nonprofit schools are exempt if made to students of the school in grades 1 through 12. Such sales are primarily intended to further the educational purposes of the school. However, sales to persons who are not students or school personnel are subject to sales tax.

Until May 4, 2023, sales by a bookstore of non-education-related items such as T-shirts, sweatshirts, hats, memorabilia, class rings, license plates, etc. **are** subject to sales tax, regardless of whether the purchaser is a student or non-student. In addition, the bookstore must register as a retail merchant to purchase these items exempt for resale and to collect the tax from the ultimate purchaser. Effective May 4, 2023, all sales by schools (including yearbooks) that are a part of the Indiana public school system, which includes their sales through a school-operated bookstore, are exempt from sales tax. However, this exemption does not extend to independent school organizations, as outlined below.

By Independent School Organizations

Effective May 4, 2023, independent school organizations, clubs, or groups that conduct selling activities need not collect sales tax if the funds are to be used by the organization in furtherance of a nonprofit purpose **and** the organization makes \$100,000 or less in sales in the current or previous calendar year. This exemption typically removes the requirement to collect sales tax for most fundraising and student activities conducted during the school year, such as athletic event concession sales, as long as the concessions are sold directly by the school organization.

NOTE: Before July 1, 2022, a nonprofit organization that made sales during more than 30 days in a calendar year, or, between July 1, 2022, and May 3, 2023, made more than \$20,000 in a calendar year, was a retail merchant and was required to collect sales tax on all sales made during the calendar year.

Sales of tangible personal property by qualified nonprofit organizations of not more than \$100,000 in the current or previous calendar year used to raise funds to further the qualified nonprofit purposes of the organization are

exempt from sales tax. That means that independent school organizations, clubs, or groups that conduct selling activities need not collect sales tax if the funds are to be used by the organization in furtherance of a nonprofit purpose **and** the organization makes less than \$100,000 in sales in the previous calendar year or less than \$100,000 in sales during the current calendar year. If more than \$100,000 in sales are made in the current or previous calendar year, the organization or group is required to collect sales tax on sales on an ongoing basis for the remainder of the calendar year.

Youth organizations focused on agriculture are not subject to these restrictions and are not required to collect sales tax no matter the purpose or the annual amount of sales they make.

Any independent nonprofit school organization, club, or group that makes \$100,000 in sales during the current or previous calendar year (with the exception of a youth organization focused on agriculture) must register with the Indiana Department of Revenue as a nonprofit organization. Application for nonprofit registration must be made by using the department's online e-services portal, called the Indiana Taxpayer Information Management Engine (INTIME), by visiting intime.dor.in.gov.

FURTHER INFORMATION

For more information related to the general application of sales tax to government entities, please refer to Sales Tax Information Bulletin #4. For more information related to the general application of sales tax to nonprofit entities, please refer to Sales Tax Information Bulletin #10. For more information related to the general application of sales tax to food & food ingredients, please refer to Sales Tax Information Bulletin #29. These bulletins are available online at in.gov/dor/legal-resources/tax-library/information-bulletins/sales-tax-information-bulletins/.

If you have any questions concerning this bulletin, please contact the Tax Policy Division at taxpolicy@dor.in.gov.

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Commissioner

Posted: 07/19/2023 by Legislative Services Agency
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