

INFORMATION BULLETIN #32

SALES TAX

NOVEMBER 2011

(Replaces Bulletin #32, dated December 2002)

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide the information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, rules, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

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

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 sales tax related to acquisitions of or sales by the school corporation or organization.

I. 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. Application for an RRMC must be made online by completing form BT-1, available at <http://www.in.gov/dor/3731.htm>.

II. ACQUISITION OF TANGIBLE PERSONAL PROPERTY

A. 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.

B. By School Organizations

School organizations 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.

C. 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.

III. SALES OF TANGIBLE PERSONAL PROPERTY

A. By School Corporations

Meals

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. 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.

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 lunch room; 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.

All other sales of food and drinks through vending machines are subject to sales tax, including sales of food and drinks through vending machines accessible to the general public due to location (such as in the school's lobby or entryway) or during non-school hours.

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.

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.

B. By School Organizations

Individual school organizations 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 such sales for a period of 30 or fewer days during a 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.

Sales of high school yearbooks and annuals are exempt from sales tax as long as the yearbooks are produced and sold as a student activity or class project and the commercial publisher's activities are limited to furnishing necessary artwork, printing, or binding.

However, sales of tangible personal property on an ongoing basis **are** subject to sales tax. An example would be continued sales by a band booster club of tangible personal property throughout the year to raise money to buy band uniforms. Any nonprofit school organization or group that makes sales for more than 30 days during a calendar year must register with the Indiana Department of Revenue as a nonprofit organization. Application for nonprofit registration must be made on Form NP-20A, available online at: <http://www.in.gov/dor/3506.htm>.

For more information related to the general application of sales tax to government entities, please refer to Sales Tax Information Bulletin #4, available online at <http://www.in.gov/dor/3650.htm>.

For more information related to the general application of sales tax to nonprofit entities, please refer to Sales Tax Information Bulletin #10, available online at <http://www.in.gov/dor/3650.htm>.

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

John Eckart
Commissioner