



% Taxes

Nonprofit and Exempt Organizations – Purchases and Sales

Certain nonprofit and government organizations are eligible for exemption from paying Texas taxes on their purchases. Nonprofit organizations must apply [comptroller.texas.gov/taxes/exempt/forms/] for exemption with the Comptroller's office and receive exempt status before making tax-free purchases. Federal and Texas government entities are automatically exempt from applicable taxes.

This publication identifies some qualified organizations and their exemptions from limited sales and use tax (sales tax) [comptroller.texas.gov/taxes/sales/], hotel occupancy tax (hotel tax) [comptroller.texas.gov/taxes/hotel/] and motor vehicle sales, use and rental taxes (motor vehicle tax) [comptroller.texas.gov/taxes/motor-vehicle/sales-use.php].

It also explains how a qualified organization can claim an exemption and what its tax responsibilities are when selling taxable items.

Nonprofit Organizations

The most common categories of nonprofit organizations that can qualify for exemption from paying Texas taxes on their purchases are the following:

Religious – A nonprofit organization made up of a recognized group of people who meet regularly at the same location primarily to hold, conduct and sponsor religious worship services according to their belief.

Under this exemption:

- a church, synagogue or temple congregation can qualify;
- a family church, association of ministers or evangelistic organization does not qualify.

Charitable – A nonprofit organization that devotes all (or substantially all) of its activities to easing poverty, disease, pain and suffering by giving food, medicine, medical treatment, shelter, clothing or psychological counseling directly to the needy or poor for little or no fee.

Under this exemption:

- a homeless shelter or soup kitchen can qualify;
- a service league or medical association does not qualify.

Educational – A nonprofit organization devoted solely to teaching (particularly in the commonly accepted arts, sciences and vocations) that has a regularly scheduled curriculum, faculty and enrolled students attending a place where the educational activities occur.

Under this exemption:

- a nonprofit organization with activities consisting solely of public discussion groups, forums, panels, lectures or other similar programs in the commonly accepted arts, sciences and vocations can qualify;
- a nonprofit private elementary or secondary school can qualify;
- school parent-teacher associations (PTAs) or parent-teacher organizations (PTOs) can qualify;
- a tutoring center or day care center does not qualify.

Texas public elementary and secondary schools, colleges and universities have a dual exemption as both educational organizations and as Texas government entities.

Federal Income Tax Exemption – A nonprofit organization that has obtained a federal income tax exemption under Internal Revenue Code (IRC) Sections 501(c)(3), (4), (8), (10) or (19). For information, see the IRS website.

Under this exemption:

- a school booster club with a 501(c)(3) can qualify;
- a sorority or fraternity with a 501(c)(7) does not qualify.

Youth Athletic Organization – A nonprofit organization that solely provides athletic competition among people under 19 years old.

Under this exemption:

- a peewee soccer club can qualify;
- an adult sports league does not qualify.

Volunteer Fire Department – A nonprofit company, department or association that answers fire alarms and extinguishes fires and, may also provide emergency medical services. Members receive little or no compensation for their services.

Under this exemption:

- a rural area volunteer fire department can qualify;
- a volunteer emergency medical service (EMS) does not qualify.

Chamber of Commerce – A nonprofit association, made up primarily of people in business, which promotes the common economic interests of all commercial interests or trades in the city, county or areas it represents.

Under this exemption:

- a multi-county chamber of commerce can qualify;
- a multi-county lawyers association does not qualify.

Convention and Tourist Promotional Agency – A nonprofit convention and tourist promotional agency organized or sponsored by at least one Texas city or county.

Under this exemption:

- a tourism or visitor bureau for the area can qualify;
- a for-profit tour company does not qualify.

See Publication 96-1045, *Guidelines to Texas Tax Exemptions* [comptroller.texas.gov/taxes/publications/96-1045.php], for details on applying for exemption and for other types of organizations that can qualify for exemption. For questions about the application process, contact our Exempt Organizations Section at exempt.orgs@cpa.texas.gov [<mailto:exempt.orgs@cpa.texas.gov>].

Government Entities

Federal Government – Federal government entities, including the United States government, all its political subdivisions, agencies, departments and branches of the military, are exempt by law and are not required to apply for exemption. Foreign governments are not exempt.

State and Local Government – Texas state and local government, their agencies, departments, school districts and other political subdivisions.

- Government entities of other states are not exempt.
- Texas public schools, colleges and universities have a dual exemption as both educational organizations and as government entities.
- State and local government entities are exempt by law and are not required to apply for exemption.

Foreign Diplomatic and Consular Personnel – International and federal law govern state tax exemptions for foreign diplomatic and consular personnel in the United States. The U.S. Department of State's Office of Foreign Missions (OFM) and American Institute in Taiwan issue exemption cards for qualified individuals.

For more information, see the OFM website.

Purchases – Tax Exemption Chart

Use this chart to determine which tax exemptions may apply to your organization. Remember that while federal and Texas state and local government entities are automatically exempt from the taxes indicated in the chart, nonprofit organizations must apply with the Comptroller's office and receive exempt status.

Purchases must relate to the nonprofit's exempt purpose. Employees and volunteers cannot buy personal items tax free, even if traveling on official business or if reimbursed by the nonprofit organization.

Beer, wine and liquor purchases do not usually qualify for exemption because they are not part of the nonprofit's exempt purpose. An exempt religious organization can claim an exemption when it buys sacramental wine.

Organization	Sales Tax	State Hotel Tax	Local Hotel Tax	Motor Vehicle Tax
Religious	Yes	Yes	No	Restrictions apply *
Charitable	Yes	Yes	No	No
Educational – Public Primary and Secondary	Yes	Yes	No	Texas schools only
Educational – Private Primary and Secondary	Yes	Yes	No	No
Educational – Public College/University	Yes	Texas schools only	No	Texas schools only
Educational – Private College/University	Yes	Texas schools only	No	No
Federal Tax Exemption 501(c)(3), (4), (8), (10) or (19)	Yes	No	No	No
Youth Athletic Organization	Yes	No	No	No
Volunteer Fire Department	Yes	No	No	Restrictions apply **
Chambers of Commerce	Yes	No	No	No
Convention and Tourist Promotional Agency	Yes	No	No	No
U.S. Federal Government Agency	Yes	Yes	Yes	Yes
Texas State and Local Government Agency	Yes	No	No	Yes

* A religious organization is exempt from motor vehicle sales tax if the vehicle:

- it buys, leases or rents is a trailer or is designed to carry more than six passengers;
- is used primarily (at least 80 percent of the time) by a church or religious organization; and
- is not registered as a passenger vehicle and used primarily for the personal or official needs or duties of a minister.

** A volunteer fire department is exempt from motor vehicle sales tax when purchasing:

- fire trucks; and
- emergency medical response vehicles.

How to Claim Tax Exemption – Nonprofit Organizations

Sales Tax

If a nonprofit organization has qualified for sales tax exemption with the Comptroller's office, it can claim a sales tax exemption when it buys a taxable item by giving the seller a properly completed Form 01-339, *Texas Sales and Use Tax Exemption Certification* (exemption certificate) [comptroller.texas.gov/forms/01-339.pdf].

An authorized agent can buy items tax free by giving the seller a properly completed exemption certificate in the exempt nonprofit organization's name. An "authorized agent" is a person designated by the exempt organization to buy items on its behalf.

Sellers do not have to accept an exemption certificate. If a seller does not accept an exemption certificate, the exempt organization can ask the seller for a completed *Assignment of Right to Refund* [comptroller.texas.gov/forms/00-985.pdf] to request a refund [comptroller.texas.gov/taxes/sales/refunds/] directly from the Comptroller's office.

Purchases for Donation

An individual can give Form 01-339, *Texas Sales and Use Tax Exemption Certification* [comptroller.texas.gov/forms/01-339.pdf], to the seller instead of paying sales tax when buying items to be directly donated to the following exempt organizations: religious, charitable, educational, nonprofits exempt under IRC Sections 501(c)(3), (4), (8), (10) or (19), federal government entities and Texas state and local government entities.

The exemption certificate must show the individual's name and the name of the exempt organization accepting the donation. If the individual uses the item before donating it, the individual loses the sales tax exemption and owes tax on the purchase price.

A seller can remove an item from a tax-free inventory to donate to qualified exempt organizations without paying use tax on the item.

Hotel Tax

If a nonprofit organization has qualified for hotel tax exemption with the Comptroller's office, it must give the hotel a properly completed Form 12-302, *Texas Hotel Occupancy Tax Exemption Certificate* [comptroller.texas.gov/forms/12-302.pdf], and letter of hotel tax exemption from the Comptroller's office at check-in. The exemption is only for the state hotel tax [comptroller.texas.gov/taxes/hotel/] and not local hotel

taxes. The Comptroller's Tax-Exempt Entity Search [comptroller.texas.gov/taxes/exempt/search.php] lists nonprofits that are exempt from state hotel tax.

An employee traveling on official business for the exempt organization qualifies for the exemption. A representative claiming an exemption who is not an employee of the exempt organization must pay the hotel directly with the organization's funds, such as an organization check, credit card or direct billing, to qualify for the exemption.

Motor Vehicle Taxes

Motor Vehicle Sales and Use Tax

When purchasing a qualified exempt vehicle, an exempt organization can claim an exemption from Motor Vehicle Sales and Use tax on Form 130-U, *Application for Texas Title and/or Registration*.

Motor Vehicle Rental Tax (Rental of 180 Days or Fewer)

When renting a qualified exempt vehicle, an exempt organization can claim an exemption from Motor Vehicle Rental tax by giving Form 14-305, *Motor Vehicle Rental Tax Exemption Certificate* [comptroller.texas.gov/forms/14-305back.pdf], to the seller.

How to Claim Tax Exemption – Government Entities

Sales Tax

The federal government and Texas state and local government entities are exempt from sales tax on their purchases, including alcoholic beverages.

An exempt government entity (or its authorized agent) can claim a sales tax exemption when it buys a taxable item by giving the seller a properly completed Form 01-339, *Texas Sales and Use Tax Exemption Certification* [comptroller.texas.gov/forms/01-339.pdf], or a purchase voucher in the government entity's name.

Hotel Tax

Federal employees traveling on official business can claim exemption from state and local hotel tax [comptroller.texas.gov/taxes/hotel/] by giving the hotel Form 12-302, *Texas Hotel Occupancy Tax Exemption Certificate* [comptroller.texas.gov/forms/12-302.pdf].

City, county and other local government entity employees and government contractors are not exempt from hotel tax.

With few exceptions, employees of state agencies, boards, commissions and institutions are not exempt and must pay state and local hotel taxes. Most state employees are reimbursed by the state agency automatically through travel vouchers. Texas state agencies can apply for a refund of the hotel tax [comptroller.texas.gov/taxes/hotel/refunds/] paid.

Texas state officials who qualify for a Hotel Tax Exemption Photo Identification Card can claim exemption from state and local hotel tax by showing the card and giving the hotel Form 12-302, *Texas Hotel Occupancy Tax Exemption Certificate* [comptroller.texas.gov/forms/12-302.pdf].

Motor Vehicle Taxes

Motor Vehicle Sales and Use Tax

When purchasing a qualified exempt vehicle, the federal, state or local government entity can claim an exemption from motor vehicle sales and use tax on Form 130-U, *Application for Texas Title and/or Registration*. The motor vehicle must be titled and registered in the government entity's name. State and local government motor vehicles must display exempt license plates.

Motor Vehicle Rental Tax (Rental of 180 Days or Fewer)

When renting a qualified exempt vehicle, the federal, state or local government entity can claim an exemption from motor vehicle rental tax by giving Form 14-305/back, *Motor Vehicle Rental Tax Exemption Certificate* [comptroller.texas.gov/forms/14-305.pdf], to the seller.

How to Claim a Sales Tax Refund

An exempt organization or government entity that paid sales tax in error, or was denied exemption by a seller, may be eligible for a refund.

You can request a refund directly from the seller by providing them with Form 01-339, *Texas Sales and Use Tax Exemption Certification* [comptroller.texas.gov/forms/01-339.pdf], or you can ask the seller for a completed *Assignment of Right to Refund* [comptroller.texas.gov/forms/00-985.pdf] to request a refund [comptroller.texas.gov/taxes/sales/refunds/] directly from the Comptroller's office. The four-year statute of limitations applies to all refund requests.

An exempt organization cannot receive refunds for purchases made before the postmark date of its application for exemption, or the date a Comptroller audit determines a sales tax liability, whichever is earlier.

Sales by Exempt and Other Nonprofit Organizations

The exemption from sales tax is for items an organization *buys*, not for the items it sells. Exempt organizations and other nonprofit organizations must get a sales tax permit [comptroller.texas.gov/forms/ap-

201.pdf] and collect and remit sales tax on all taxable items they sell, unless an exemption or exception applies.

The exempt or nonprofit organization does not need a sales tax permit if it:

- sells taxable items only during qualified tax-free fundraisers;
- sells only nontaxable items; or
- raises funds only by using a for-profit entity to sell taxable items.

Exempt organizations and other nonprofit organizations sometimes enter into a contract with a fundraising company to sell taxable items, such as wrapping paper, gifts, candles or candy. The exempt organization markets the items, collects the money and forwards an agreed-upon portion of the money and the sales tax collected to the fundraising company. In this case, the fundraising company is the seller, not the exempt organization. The fundraising company must report the sales tax to the Comptroller's office. This does not count as a sale by the organization.

The fundraising company can collect sales tax on the price of each taxable item, or it can be included in the price of each taxable item. If tax is included in the price of the item, the customer must be told that tax is included in the price.

Examples of Nontaxable Sales by Certain Exempt and Nonprofit Organizations

Religious, Charitable, Educational and IRC 501(c) (3), (4), (8), (10) or (19) Organizations

Two One-Day, Tax-Free Sales or Auctions

Religious, charitable, educational and IRC 501(c)(3), (4), (8), (10) and (19) organizations and each of their bona fide chapters can hold two one-day, tax-free sales or auctions each calendar year. An organization can hold the two tax-free sales back-to-back for a maximum of 48 consecutive hours during which they are not required to collect sales tax.

This exemption does not apply to items sold for more than \$5,000, unless the exempt organization manufactured the item or the item is donated to the organization and not sold back to the person who donated the item.

A one-day, tax-free sales day (24 consecutive hours) is either:

- the day the vendor delivers the items to the exempt organization; or
- the day the exempt organization delivers the items to its customers.

Customers buying from surplus inventory on the designated day do not owe tax. For example, a school can sell old yearbooks on the same designated day they are distributing the new yearbooks and not collect sales tax. Extra yearbooks sold outside of the two one-day, tax-free sales days are taxable.

If two or more organizations hold their tax-free sales together, the event counts as one tax-free sale for each participating group.

These organizations must apply with the Comptroller's office and receive sales tax exempt status before holding a tax-free sales day. To purchase taxable items tax free for resale during the tax-free sales days, the organization can either give the seller a resale certificate [comptroller.texas.gov/forms/01-339.pdf] (if it has a sales tax permit) or an exemption certificate [comptroller.texas.gov/forms/01-339.pdf].

Volunteer Fire Departments

10 Tax-Free Sales or Auctions

Nonprofit volunteer fire departments with sales tax exempt status from the Comptroller's office can hold 10 tax-free sales or auctions each calendar year. Each sale or auction must last 72 hours or less. A tax-free sale or auction longer than 72 consecutive hours is considered more than one exempt sale or auction. If two or more volunteer fire departments hold a tax-free sale or auction together, the event counts as one tax-free sale for each organization.

To purchase taxable items tax free for resale during the tax-free sales days, the organization can either give the seller a resale certificate [comptroller.texas.gov/forms/01-339.pdf] (if it has a sales tax permit) or an exemption certificate [comptroller.texas.gov/forms/01-339.pdf].

Student Organizations – Higher Education

One Tax-Free Sale Day a Month

College or university student organizations affiliated with an institution of higher education in Texas can hold a one-day, tax-free sale each month. The Comptroller's office keeps a list of the affiliated student organizations that can have these tax-free sales.

Either the student organization or the institution can send updates to the list. If a student organization is also a 501(c)(3) or (4), it can hold two one-day, tax-free sales each calendar year in addition to this one tax-free sale a month.

The qualified exempt sales by the student organization (whose purpose is not to engage in business or to make a profit) must be to raise funds for the organization. This exemption does not apply to items sold for more than \$5,000, unless the organization manufactured the item or the item was donated to the organization and not sold back to the person who donated the item.

In addition to the monthly tax-free sale, affiliated student organizations do not have to collect sales tax on the first \$5,000 of their taxable sales in a calendar year.

Senior Citizens Groups

Four Tax-Free Fundraising Events a Year

Nonprofit senior citizens groups can hold four tax-free sales events each calendar year. The four events combined cannot last for more than 20 days total. These groups do not have to collect or remit sales tax on items they sell during these tax-free sales events if they follow all of these conditions:

- all items are made or assembled by persons 65 years or older;
- sales are part of a fundraising drive to provide assistance to elderly persons; and
- net proceeds go to the organization or the person who produced the items, or both.

If a senior citizen group is also a 501(c)(3) or (4), it can hold two one-day, tax-free sales each calendar year in addition to the four tax-free fundraising events.

Nonprofit Animal Shelters

An animal sold by a nonprofit animal shelter, including an adoption fee, is exempt from sales tax. An “animal shelter” is a facility that keeps or legally impounds stray, homeless, abandoned or unwanted animals. Tax is due on a shelter’s sale of taxable items, such as leashes, collars and grooming supplies.

If an animal shelter is a 501(c)(3) or (4), it can hold two one-day, tax-free sales each calendar year in addition to the exemption on the sale and adoption fee for an animal.

Independent Life Skills

A 501(c)(3) nonprofit organization that provides independent life skills and educational programs to individuals with special needs can sell items tax free through vending machines.

The vending machines must be:

- owned and operated by the nonprofit organization; and
- stocked and maintained by individuals with special needs as part of an independent life skills and education program.

Other Exempt Sales – Amusement Services, Memberships, Food and Publications

Amusement Services

The sale of an amusement service provided exclusively by a nonprofit organization, other than a 501(c)(7), is exempt from sales tax. For example, selling a ticket to a school carnival, dance, athletic event or concert is exempt. If the proceeds benefit an individual outside of the services of a purely public charity, the sale of the amusement service is not exempt.

All tickets and advertising (billboards, radio, television and other media) must show the organization as the sole provider of the event and that the event is exempt from tax.

Membership Dues and Fees

Nonprofit organizations' membership dues and fees are not taxable, unless the organization is in the business of providing amusement services, such as a country club.

Food Sales

Sales of meals and food products (including candy and soft drinks) are nontaxable when sold by:

- a church or at a church function;
- a member or a volunteer of a nonprofit organization devoted exclusively to education, physical training or religious training of people under 19 years old when all net proceeds from the sale go to the organization for its exclusive use; or
- a public or private elementary or secondary school; school district; student group; parent-teacher association; booster club; or other school support organization. Restrictions apply. See Publication 94-183, *School Fundraisers and Texas Sales Tax* [comptroller.texas.gov/taxes/publications/94-183.pdf], for more information.

Baked goods sold by a nonprofit organization are not taxable when sold without eating utensils, such as plates, spoons, knives and forks. Napkins or wax tissues are not eating utensils. Examples of baked goods are pies, cakes, cookies, doughnuts, pigs-in-a-blanket, biscuits and bagels.

All volunteer nonprofit organizations can hold a tax-free annual banquet or other food sale if the event:

- is not professionally catered;
- is not held in a restaurant, hotel or similar place of business;
- is not in competition with a seller required to collect tax; and
- only members of the organization prepare, serve and sell the food.

Alcoholic beverages and other nonfood items sold at these events are taxable.

Publications

Periodicals and writings published and distributed by a religious, philanthropic, charitable, historical, scientific or 501(c)(3) organization are exempt from sales tax.

Materials published by public and private schools, colleges and universities and other similar institutions organized for teaching a formal program are not exempt. PTAs and PTOs that support these schools can sell publications tax free that they publish and distribute.

More Information

The Tax Exemptions for Qualified Organizations [comptroller.texas.gov/taxes/publications/94-183.pdf] section of our website has links to useful information, including applications, forms and other resources.

You can use the Texas Tax-Exempt Entity Search [comptroller.texas.gov/taxes/exempt/search.php] to verify an organization's exempt status for franchise, sales and hotel taxes, as well as to determine the effective date of an organization's exemption qualification for refund purposes.

- Rule 3.322 – *Exempt Organizations*
- Rule 3.82 – *Exemption for Churches or Religious Societies*
- Rule 3.161 – *Definitions, Exemptions, and Exemption Certificate*
- Rule 3.163 – *Refund of Hotel Occupancy Tax*

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