

Sales Tax Manual



TEXAS A&M UNIVERSITY
SAN ANTONIO

Dated 02/2018

GENERAL

- A&M-San Antonio is exempt from paying State of Texas sales tax on purchases. However, the University is not exempt from collecting tax on its sales.
- When the University (or individual departments), herein referred to as seller, sell a taxable item, the seller is responsible for collecting sales tax on all sales, unless the purchaser provides a proof of tax exemption. Sales tax exemption certificates should be kept on file by the seller according to the Texas A&M University System Records Retention Schedule (retention schedule).
- There is no such thing as a pass through sale. A&M-San Antonio cannot pass on its exempt sales tax status to any purchaser. For example, a University department cannot purchase shirts and then sell them to a non-tax exempt purchaser without collecting sales tax.
- Sales tax is a tax on the purchaser, and the seller is not to absorb the tax in the sales price. The burden of proof of tax exemption inherently resides with the purchaser. A purchaser who claims to be sales tax exempt must provide the seller a tax exemption certificate. Since the University is sales tax exempt, no sales tax is collected on sales between University departments.
- The Department of Accounting Services will remit all sales tax collected by the University to the State Comptroller's Office as required. There is no need for departments to fill out a sales tax form or to remit collected sales tax to the State.

TAXABLE SALES

- A tax must be collected on all cash sales involving tangible personal property.
- A tax must be collected on all taxable services. See *Texas Administrative Code Title 34, Part 1, Chapter 3, Subchapter O* for more information.
 - Amusement service is defined as entertainment, recreation, or sport that is an enjoyable occupation of the senses. Amusement services include, but are not limited to, live or recorded performances, exhibitions, spectator or participatory sports, and fairs or carnivals. However, no sales tax is collected on the sale of tickets for amusement services.
 - Data processing services include word processing, data entry, data retrieval, data search, collection of information, payroll and business accounting, data production, and other information storage or manipulation. These types of sales are taxable. Sales for the use of a computer or computer time for data processing are also taxable.
 - Duplicating services are taxable.

- Information that is gathered, maintained, or compiled and made available by the provider of the information service to the public or to a specific segment of industry for a consideration is subject to sales tax. Examples of taxable information services include, but are not limited to, the following:
 - newsletters;
 - scouting reports and surveys, including those used in sports and the oil and gas and related industries;
 - mailing lists, and bad check lists (only that percentage which represents names of persons located in Texas is taxable);
 - real estate listings;
 - financial, investment, stock market, or bond rating, or financial reports, other than charges to a person by a financial institution for account balance information;
 - news clipping services and wire services; and
 - abstracts of title and other information provided by title plants.

- Sales tax is due on the charge for parking and storage of a motor vehicle. Examples include charges for parking meters, either private or municipally owned, permits for parking or storage in lots or garages, impound fees, charges for valet parking services, and parking facility lease or rental. If the charge for parking and storage either includes a charge for transportation such as shuttle services, or is in addition to a separately stated charge for transportation, sales tax is due on the entire charge, including any separately stated charges for transportation, other than motor vehicle towing provided by licensed tow truck operators. Motor vehicle towing charges are not subject to sales tax. Persons who repossess motor vehicles for creditors are providing taxable debt collection services rather than towing services, and should refer to *§3.354* of this title (relating to Debt Collection Services) for more information. However, colleges, universities, and public schools are not required to collect sales tax on charges for parking permits and decals issued to their students, faculty, or staff for campus parking.

- Sales tax is due on laundry, cleaning, and garment services. A person who performs these services is required to collect sales tax from the customer.

- Postage and handling (also called transportation charges, freight, shipping, delivery, or convenience fees) are taxable to a customer when a taxable item is sold. See *Texas Administrative Code Title 34, Part 1, Chapter 3, Subchapter O, Rule §3.303*. These charges are considered to be services connected to the sale. Please ensure that you include sales tax on these fees for any taxable item(s) sold. If the sale is to an exempt organization or shipped out of state, these charges are not taxed.

- Surplus property sold to any state agency is sales tax exempt. Sales of typewriters, office furniture, construction equipment and other tangible personal property to non-state agencies should be charged sales tax unless proof of tax exemption is received. Vehicles licensed for use on highways sold to non-state purchasers are subject only to the Motor Vehicle Sales Tax which is collected by the county Tax Assessor-Collector.

NONTAXABLE SALES

No tax is required for many items.

- Room rental.
- Conference Registration. Conferences for educational purposes are sales tax exempt. Tax is not collected on books, pamphlets, clothing, meals, etc. if these items are included in the cost of the registration. Attendees are paying for the conference and not the items. The items included in the conference registration fee should be an insubstantial part of the fee. However, books, pamphlets, clothing, meals, etc. sold separately at the conference are taxable and sales tax should be collected accordingly. These items are tangible personal property. See *Texas Tax Code Section 151.009*. For example, a conference registration fee is \$100 and includes a notebook. This would not be taxable. However, when the conference registration fee is \$10 and includes a t-shirt. This would be looked upon as selling the t-shirt since the cost of the t-shirt is a substantial part of the registration fee. As such, it would be subject to sales tax.
- Booth Rental.
- Dues.
- Fines & Penalties.
- Publications. Newspapers sold or distributed by individual copy or by subscription are sales tax exempt. The term newspaper does not include magazines, handbills, circulars, flyers, sales catalogs, or the like, unless these items are distributed as a part of a newspaper and the items, after being printed, are delivered by the printer to the person responsible for the distribution of the newspaper. Subscriptions to magazines mailed as periodicals class (formerly called second class) that are sold for a semiannual or longer period of time are sales tax exempt. However, individual magazine sales are taxable. Also, periodicals and writings published and distributed by an educational organization are subject to sales tax unless they are subscriptions of six months or longer which are mailed as periodicals class. See *Texas Administrative Code Title 34, Part 1, Chapter 3, Subchapter O, Rule §3.299*.

SALES TAX EXEMPTIONS:

- Some purchasers of taxable items qualify for a sales tax exemption because of the nature of their organization. Some are exempt because of their exemption status or because the item is being purchased for resale. See *Texas Administrative Code Title 34, Part 1, Chapter 3, Subchapter O, Rule §3.322* for more information about Exempt Organizations.
- University departments must obtain *sales tax exemption or resale certificates* from the purchaser at the time of the sale. This certificate should be kept on file by the selling

department following the retention schedule.

- There is no such thing as an exempt number. The purchaser must prove his/her exemption status to you. An exemption certificate must show the purchaser's name and address; a description of the item; the reason the purchase is exempt; the signature of the purchaser and date; and the name and address of the seller. If you can identify the purchaser as a governmental entity or a non-profit organization, an official purchase order or letterhead from the purchaser can serve as a tax exempt certificate. Organizations can be verified as exempt by using the State's online, *Exempt Organization Search*. See also *Texas Sales Tax Frequently Asked Questions about Exemptions* for more information.
- The Texas Tax Code permits student organizations affiliated with an institution of higher education to hold a one-day, tax-free sale each month. For specific information on the exemption criteria, please see *Texas Publication 96-122, "Exempt Organizations: Sales and Purchases"*.

OUT OF STATE PURCHASERS:

- Sales tax is charged based on where the possession of the item takes place. Items that are shipped to the purchaser outside of Texas are tax exempt, but documentation of the shipment should be retained with the deposit.
- If the out of state purchaser picks up the item at the University or at an event in Texas, sales tax should be collected unless the organization is tax exempt.

SALES TAX CALCULATION:

- Sales tax must be collected on the amount of the sale that is taxable. Taxable sales should be separated from nontaxable sales to perform this calculation. The total amount of taxable sales times the sales tax rate equals the sales tax amount.
- If the tax on a sale is less than half a cent, no tax is collected. If the sales tax equals half a cent or more, the full one cent is collected. Sales tax on a \$.05 sale is not due because it is less than half a cent. The seller must collect the 8.25% tax of the gross revenue collected. The seller must then deposit the sales tax collected through Student Business Services to account 011518-2110.

AUDITS:

- The State Comptroller, or another person appointed by the State Comptroller, can examine the books, records, equipment, and papers of a person who sells taxable items. The State Comptroller may also investigate the business of the person to check the

accuracy of the person's report or to determine the amount of tax that may be required to be paid if no report has been filed.

REQUIRED PRIOR APPROVALS AND TRAINING:

- The seller is responsible for obtaining approval from the Chief Financial Officer and their respective department head prior to selling taxable items.
- The seller must attend training on taxable items, collection of sales taxes and cash handling procedures prior to selling taxable items. This training will be provided by Student Business Services and the Department of Accounting Services.

DEFINITIONS:

- Accounting Policy Statement No. 8 – A publication released by the State Comptroller of Public Accounts. It discusses the deposit of sales tax and hotel occupancy tax collected by state agencies.
- Cash Sales – In this context, it refers to sales made by cash, check, or credit card.
- Exhibitions – Examples include, but are not limited to, animal shows; antique shows; arts and crafts; museums; and auto shows.
- Information Services – Information Services are defined as furnishing general or specialized news or other current information, including financial information, by printed, mimeographed, electronic, or electrical transmission, or by utilizing wires, cable, radio waves, microwaves, satellites, fiber optics, or any other method now in existence, or which may be devised, and electronic data retrieval or research. Information services do not include Internet access service or information services that are provided in conjunction with and merely incidental to the provision of internet access service when provided for a single charge. See *Texas Administrative Code Title 34, Part 1, Chapter 3, Subchapter O, Rule § 3.342*.
- Magazine – Magazine is defined as a publication that is usually paperbacked and sometimes illustrated, appearing at regular intervals. It contains advertisements, stories, articles, and essays by various writers.
- Newspaper – A newspaper is defined as a publication that is printed on newsprint and distributed at short intervals for the circulation of general interest. The average sales price for each copy over a 30-day period must not be more than \$0.75.
- Sales Tax – It is a tax on the sale, lease or rental of taxable tangible personal property and taxable services within the State of Texas.

- Tangible Personal Property – The State Comptroller defines this as personal property that can be seen, weighed, measured, felt or touched, or that is perceptible to the senses. See *Texas Tax Code Section 151.009*. It applies to cash sales transactions, such as food, materials, books, supplies, publications, equipment, etc.
- Tax Exempt – The sales tax is not collected. It may be due to the nature of the organization or to the way the merchandise is to be used.
- Tax Exempt Organizations – Governmental entities (the United States, the State of Texas, or a county, city, special district, or other subdivision of the state), religious, educational and public service organizations are among the organizations that are considered tax exempt.
- Tax Exempt Certificate – A certificate which, when properly executed, allows the tax-free purchase of an item that would otherwise be subject to sales tax. The Texas A&M University System and its component institutions are part of the State, and are exempt from paying the State sales tax. However, the University must collect sales tax on items that we sell. In order for a sale to be tax exempt, the purchaser must present a tax exemption certificate proving exempt status.
- Tax Rate – The percentage that is charged based on the taxable sale. The rate will depend on where the sale takes place.