



Sales & Use Tax for Schools and Educational Institutions

This publication is designed to assist schools, educational institutions, student organizations, PTAs, booster clubs and retailers in understanding how Kansas sales and use taxes apply to the varied activities of an elementary or secondary school, college, technical school or university. It uses common school situations to illustrate the sales and purchases by schools that are taxable and how to properly claim the exemptions available. Information about tax reporting, other taxes applicable to schools and your departmental resources are also included.

Also included is information about how to report and pay the taxes. By law, businesses are now required to submit their Sales and Compensating Use Tax returns electronically. This law was effective July 1, 2010. Kansas offers several electronic file and pay solutions – see page 26.

Use this guide as a supplement to KDOR's (Kansas Department of Revenue) basic sales tax guides, Publication KS-1510, Kansas Sales and Compensating Use Tax and Publication KS-1520, Kansas Exemption Certificates.



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If there is a conflict between the law and information found in this publication, the law remains the final authority. Under no circumstances should the contents of this publication be used to set or sustain a technical legal position. A library of current policy information is also available on our web site: ksrevenue.org



INTRODUCTION TO KANSAS SALES TAX

This publication was written to assist those engaged in educating students of all ages in understanding how Kansas sales and use taxes apply to their dual roles as an exempt entity and as a retailer. Throughout this publication we will cite or refer to the statute (K.S.A.) or regulation (K.A.R.) applicable to that section. These laws and regulations are listed on page 28.

WHAT SALES ARE TAXABLE?

Kansas sales tax applies to three general types of transactions.

- The **retail sale**, rental or lease of tangible personal property;
- The fees for **labor services** to install, apply, repair, service, alter or maintain tangible personal property; and
- The sale of **admissions** to places providing amusement, entertainment or recreation.

A **retail sale** is a sale to the final consumer or user. *Tangible personal property* is any item to which you can attach a monetary value, has a physical presence and can be moved. Tangible personal property is different from *intangible* property (stocks and bonds) or real property (land and buildings). Examples of tangible personal property purchased or sold by schools are books, candy, pictures, storage sheds, T-shirts, and yearbooks. The **labor services** that are taxable in Kansas are only those services enumerated in the law and listed above. Examples include appliance or car repair, car washes, parking lot painting, and the repair or remodel work of a commercial building. Taxable **admissions** include tickets to a concert, dance, fun night, play or sporting event.

As a general rule, schools and educational institutions are exempt on their direct purchases of tangible personal property or taxable labor services for school purposes. However, schools, educational institutions and organizations that support them also make retail sales of products, taxable services or admissions. In this capacity, the school or organization is a retailer and must register with KDOR (Kansas Department of Revenue) to collect sales tax from customers. See *Reporting and Paying Sales Tax*.

SALES TAX STRUCTURE

The Kansas sales tax rate is a combination of the state rate (currently 6.3%) plus any local sales tax

imposed by a city and/or county. Sales tax rates vary from locality to locality and currently range from 6.3% to 9.3%. Local (city and/or county) sales tax rates may change quarterly. Kansas is one of many states plus the District of Columbia participating in the Streamlined Sales Tax Project and has enacted legislation incorporating the definitions and tax structure into Kansas sales tax law.

The rate of tax charged on a retail sale of goods or taxable services is generally determined by where the customer takes delivery of the product or service. Retailers selling at various Kansas locations must charge the combined state and local rate in effect at each location. Retailers shipping goods to a Kansas customer in another jurisdiction will charge the tax rate in effect at the customer's location. Contractors will charge the tax rate in effect at the job site on the taxable labor services portion of the contract (regardless of its size).

To assist retailers in collecting the correct sales tax rate for the destination or source of the sale, KDOR publishes a complete list of state and local tax jurisdictions and rates. Pub. KS-1700, Sales and Use Tax Jurisdiction Code Booklet, and its quarterly updates are available on our web site.

RETAILER AND CONSUMER RESPONSIBILITIES

Kansas **retailers** are required by law to **collect** the full amount of sales tax due on each sale to the final user or consumer and remit it on a regular basis to KDOR. When added to the purchase price of taxable goods or services, the sales tax is a debt from the consumer to the retailer. As such, the sales tax is recoverable by the retailer from the customer in the same manner as any other debt.

Kansas **consumers** are likewise obligated to **pay** the full amount of sales or use tax due on all taxable purchases. If the purchase is from a Kansas retailer, the Kansas Retailers' Sales tax must be paid to the retailer. When tangible personal property is purchased from a retailer in another state, a Kansas Compensating Use tax may be due. See *Compensating Use Taxes*, herein.

For every sale of merchandise or taxable services, a Kansas retailer must either collect the total amount of sales tax due or obtain documentation as to why a particular sale is exempt. A consumer who is entitled to an exemption from sales or use tax is, therefore, obligated to provide this documentation, and should not demand that a retailer exempt a sale without it. Information on how to properly claim the sales and use tax exemptions are discussed on the next page.

SALES TAX EXEMPTIONS FOR SCHOOLS AND EDUCATIONAL INSTITUTIONS

DEFINITIONS

For the purpose of qualifying for a Kansas sales or use tax exemption, the following definitions apply.

School

A **school** is a nonprofit, public or private, elementary or secondary instructional institution for pupils. "School" means an institution offering education at grade levels kindergarten through twelfth grade (commonly referred to as K-12 education), including but not limited to:


- public primary or elementary schools, junior high or middle schools, and high schools;
- nonprofit schools educating a specific segment of students (such as a school for the blind); and
- nonprofit private schools affiliated with a particular religious organization or educational philosophy.

Schools from other states as well as Kansas schools are included in the definition and are therefore also exempt on their Kansas purchases. Out-of-state schools and educational institutions that have not been issued an exemption by KDOR may use the Designated or Generic Exemption Certificate (ST-28) to claim exemption from Kansas sales tax.

School District

The term *school* generally means an individual learning center, while a *school district* is the administrative body for one or more schools. While enjoying much the same treatment for sales tax purposes, a Kansas public school district is exempt from paying sales tax on most purchases because it is a **political subdivision** of Kansas (able to levy ad valorem taxes). It will use the Tax-Exempt Entity Exemption Certificate (PR-78KS) to claim an exemption on district purchases, including those for a day care or after school care program, preschool, Head Start, or other pre-kindergarten program operated by a Kansas school district.

Kansas public school districts should also obtain (from our web site) Publication KS-1527, Kansas Sales and Use Tax for Political Subdivisions, and use it as a guide to understanding how Kansas taxes apply to them.

 **IMPORTANT:** Only **Kansas school districts are exempt**; school districts from other states must pay sales tax on their Kansas purchases. This is

in contrast to the exemption for schools and educational institutions which is also available to schools located outside Kansas.

Educational Institution

K.S.A. 79-3602(I), defines an *educational institution* as a nonprofit school, college, or university that offers educational courses at a level above the twelfth grade and meets certain requirements fixed by the statute. Included are:

- public community colleges,
- universities,
- vocational or area vocational-technical schools, and
- state educational institutions.

This term *educational institution* completes the continuum of exemption from elementary school through colleges and universities. Both in-state and out-of-state nonprofit institutions are covered by this exemption.

NONPROFIT ENDOWMENT ASSOCIATIONS & FOUNDATIONS

Four distinct types of ancillary nonprofit entities operating for the benefit of an educational institution or for an educational purpose are included in the definition of an educational institution. These are:

- 1) Nonprofit endowment associations and foundations organized and operated exclusively to receive, hold, invest and administer moneys and property as a permanent fund for the support and sole benefit of an educational institution;
- 2) Nonprofit trusts, foundations and other entities organized and operated principally to hold and own receipts from intercollegiate sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution;
- 3) Nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution; and
- 4) A group of educational institutions that operates exclusively for an educational purpose (such as the NCAA).

Endowment associations are chartered to own, control, or otherwise administer funds that are bequeathed, donated, or held in trust for the benefit of a college or university. Nearly all nonprofit endowment

associations and foundations that qualify for this exemption will have the word *endowment* in their title along with the name of the college or university.

Some state universities have established separately incorporated nonprofit foundations to administer their intercollegiate sports programs. The law exempts purchases by such a foundation and places them on the same footing as intercollegiate sports programs that continue to be run as part of the university. Ticket sales and other sales by such a foundation remain subject to state and local sales tax. See *Admissions and Ticket Sales*, herein.

Some state universities have incorporated nonprofit foundations that engage in research and development for the benefit of the university. The new law exempts purchases by such separately incorporated foundations.



CAUTION: The definition of nonprofit endowment associations and foundations is limited to those entities discussed here. Groups such as engineering societies, nursing groups, medical, law, or honorary fraternities, associations of professors, or other college or university associations that are not primarily organized to engage in research and development for the financial benefit of a university are not considered to be an *educational institution*.

NOTE: Unless otherwise indicated, we will use the terms *school* and *educational institution* interchangeably throughout this guide, meaning a nonprofit public or private educational entity that meets the qualifications in this section.

Schools that are not exempt

There are two types of schools that do not meet the definition of a school or educational institution in sales tax law, and therefore do not qualify for the sales tax exemptions: **for-profit schools** and **home schools**.

FOR-PROFIT SCHOOLS

A school or educational institution that operates as a **for-profit** entity is not covered by the exemption granted at K.S.A. 79-3606(c) and cited below. Only nonprofit institutions are exempt. For-profit schools must therefore pay sales tax on all of their purchases of taxable goods or services.

HOME SCHOOLS

Home schooling is just that, a school in the home. The fact that educational activities are conducted in a residence does not make the residence a school for purposes of the sales tax exemption. Therefore, persons operating a home school may not claim exemption from sales tax as a school and must pay sales tax on their taxable purchases.

When in doubt ...

Any organization that questions whether it qualifies as a school, educational organization or an endowment association under the law should consult the Policy Library on our web site, or request a private letter ruling from KDOR. See *Written Rulings*, herein. This request should be accompanied by copies of the by-laws, corporate charter and other documentation to show that the entity is nonprofit and meets the criteria of a school or an educational institution. Endowment associations must also include documentation that the organization is organized to manage trust funds owned by or held for the benefit of a college or university.

WHAT PURCHASES ARE EXEMPT?

The Kansas sales tax law that exempts schools and educational institutions from paying sales tax is found at 79-3606(c). Exempt are:

“all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;”

The language exempts most, but not all, purchases by a school or educational institution. To be exempt, the purchase meet certain conditions. It must be:

- a direct purchase, and
- used primarily for nonsectarian programs and activities sponsored by the school; or
- used for the building, repair or enlargement of the school's buildings; and
- not used for housing projects (dormitories).

These conditions may be summarized into two tests - the direct purchase test and the usage test.

What is a Direct Purchase?

To qualify as a **direct** purchase, the invoice must be made out to the school and payment must be made with school funds. If either of these conditions is not met, the purchase is taxable.



A university is buying lab equipment for its chemistry department. If the equipment is invoiced to the university and paid for with university funds, the purchase is exempt.

A *direct purchase* may also be in the form of a rental or lease of property. For example, instead of buying a copier or fax machine, the school decides to lease it. If the lease agreement is between the school and the business machine company and payment of each lease payment is with school funds, the transaction is exempt.

Direct purchases also do not include project materials or subcontractor services furnished by a contractor. Only the labor of the general contractor is exempt as a direct purchase. See the *Construction, Remodel or Repair Projects*, herein.

CREDIT CARDS

Some schools issue credit cards to their teachers and other employees. Although the credit card may have the authorized employee's name on it, purchases are billed by the credit card company directly to the school and are paid for with school funds. These purchases are therefore exempt from sales tax as a direct purchase.



A professor travels to another Kansas city on official business, and pays for lodging, gas, and meals with a credit card issued by a college. Charges to this card are exempt from sales tax as a direct purchase because they are billed directly to the college, and paid for with college funds.

Usage Test

Most direct purchases by a school or educational institution will be exempt because they will be used primarily for nonsectarian programs and activities provided or sponsored by the school, OR for school buildings (except dormitories and the like). A school must pay sales tax on its direct purchases that are not for general school programs or activities. Taxable purchases include:

- An appliance or other equipment for use in the school by a faculty member, student or outside organization.
- Faculty fund purchases (such as pop for the faculty lounge).
- Hotel/motel rooms and restaurant meals - unless purchased directly by the school. See *Direct Purchase* on page 5.
- Building materials, furniture and fixtures for dormitories, residence halls, etc.



A college's maintenance department buys building materials and electrical supplies using a university-issued credit card. A portion of these materials are later incorporated into a residence hall. These materials are taxable, and the school must accrue and pay sales tax on their cost.


Schools are responsible for paying the sales tax on items that are not direct purchases or do not meet the taxable usage test. This includes taxable items or services purchased by an employee with the exempt entity's credit card.

NOTE: The exemptions discussed here apply only within the state of Kansas. When traveling and making purchases in another state, that state's law(s) will apply. Furthermore, an exemption from sales tax does not automatically translate to an exemption from other taxes that are due on a transaction, such as transient guest tax or tire excise tax. See *Other Kansas Taxes*, herein.


CLAIMING YOUR EXEMPTION

Although exempt by law on most purchases, a school, educational institution or Kansas school district must still provide each of its vendors with documentation indicating that the transaction is not taxable. This documentation is a specific exemption certificate issued to each educational institution by KDOR, a sample of which can be found in the *Exemption Certificates* section of this publication. An educational institution should photocopy its Tax-Exempt Entity Exemption Certificate and furnish it to the seller as its legal authority as to why the Kansas sales tax is not due.

Contained in the certificate is the statutory authority, for your exemption, K.S.A. 79-3606(c). Each Kansas school district has been issued an entity specific exemption certificate – similar to those issued to educational institutions, a sample of which can be found in the *Exemption Certificates* section of this publication. Furthermore, KDOR has issued exemption certificates to each Parent-Teacher Association (PTA) located in the state of Kansas, a sample of which is located in this publication.

 **IMPORTANT:** Neither of the certificates described above may be used to claim exemption on the materials furnished by a contractor or the labor and materials furnished by a subcontractor on a real property contact. See *Construction, Remodel and Repair Projects* on the next page.

If you make repeated exempt purchases of the same type from the same vendor, it is not necessary to furnish an exemption certificate for each transaction. You may instead use one exemption certificate to cover future exempt purchases.

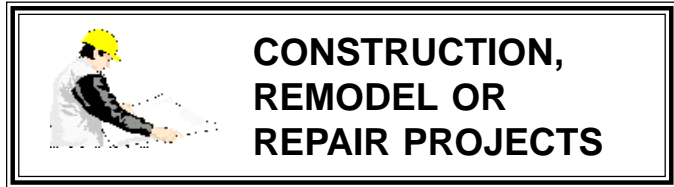
 **CAUTION:** You must segregate the purchases that are taxable from those that are exempt. You agree to do this when you sign an exemption certificate. All of the exemption certificates have this statement above the buyer's signature:

"The undersigned purchaser understands and agrees that if the property or services are used other than as stated above or for any other purpose that is not exempt from sales or compensating tax, the undersigned purchaser becomes liable for the tax."



ABC Elementary School of Anywhere, Kansas has its KDOR-issued exemption certificate on file at the local office supply store. While in the store to pick up school supplies, ABC's school's principal also purchases paper and ink cartridges for his home computer. Since the paper and ink cartridges are subject to sales tax, the principal should segregate these personal purchases and pay the sales tax on them.

Schools use exemption certificates not only as an exempt entity, but also in their role as a retailer. For additional information about exemption certificates and their uses, see *Reporting and Paying Sales Tax*, herein.



GENERAL RULES

There are two components to any construction, remodel or repair project – materials and labor. The general sales tax rules for real property projects owned by a school or educational institution are as follows.

MATERIALS:

- Exempt when directly purchased by the school, unless purchased for human habitation.
- Taxable when furnished by a contractor or subcontractor unless a Project Exemption Certificate (PEC) has been obtained (see *Project Exemption Certificates (PECs)*, herein).

LABOR:

- Exempt when directly purchased by the school. Labor for human habitation is exempt from sales tax as “residential” labor. (See *Taxable Projects*, herein).
- Taxable when furnished by a subcontractor *unless*:
 - a PEC has been obtained; or
 - the project qualifies as “original construction” (as defined herein).

The rules for building projects are complicated in part because of the operation of two aspects of sales tax law - the taxation of contractors, and the exemption for schools and educational institutions. Schools are exempt only on their direct purchases of tangible personal property or services. You may use the Tax-Exempt Entity Exemption Certificate issued to you by KDOR, to make a direct purchase without tax of either the materials or the labor for a building project. However, when you enter into a contract with a contractor or repairman to furnish the materials for a real property project, **only the labor is a direct purchase**, and

therefore exempt from sales tax using the KDOR-issued Tax-Exempt Entity Exemption Certificate.

Items purchased **indirectly** through the contractor, such as materials, any leased or rented equipment, and the materials and labor services of the subcontractors do not meet the definition of a direct purchase. Their contract cost to you will include the sales tax paid or accrued by the contractor(s), unless a PEC has been issued for that project by KDOR or by you as its authorized agent.

Materials are taxable because Kansas law considers contractors, subcontractors, and repairmen to be the final user or consumer of their materials. Contractors must pay the sales tax on materials purchased from their suppliers or removed from their inventory for a project. This rule applies even when the real property project is for a sales tax exempt entity, such as a school or educational institution.

When an electrician, plumber, or carpenter agrees to furnish and install materials for a school, he must pay or accrue sales tax on those materials and will **pass this cost on** to the school unless a PEC has been obtained. The contractor remains responsible for the sales tax on his materials even when the exempt entity unlawfully refuses to pay this additional cost by striking the tax (or perceived tax) from the bill.



A junior college contracts with a plumber to furnish and install a new water heater in its student union. The project's cost to the junior college will include the sales tax paid or accrued by the plumber on the water heater unless the college has obtained and furnished a PEC to the plumber.

Schools can avoid the additional cost of paying sales tax on materials without obtaining a PEC by buying the materials directly from a supplier.



In the previous example, had the college purchased the water heater directly from a supplier (to be installed by its employees or by a plumbing contractor), the water heater would be exempt from sales tax as a direct purchase. The installation services of a plumbing contractor would also be exempt as a direct purchase of labor services. The college would furnish the each vendor with its KDOR-issued tax exempt entity exemption certificate.

Repair of Tangible Personal Property

When a Kansas school contracts for the repair, maintenance, alteration or servicing of an item of **tangible personal property**, the entire repair service (materials, parts and labor) is considered to be a direct purchase by the school. Examples of tangible personal property owned and repaired by schools include: furniture, office equipment, maintenance equipment, sports equipment, and vehicles. Since the total repair

bill is a direct purchase by the school, use your KDOR-issued tax exempt entity exemption certificate.



A school is having its lawn mower serviced. Parts are \$25 and labor is \$75. The repairman will accept the KDOR-issued tax exempt entity exemption certificate in lieu of charging sales tax on the total bill of \$100.



CAUTION: The repair or maintenance of tangible personal property owned by another but used by a school or educational institution is not exempt, unless the repair is a direct purchase of the school.

ORIGINAL CONSTRUCTION

The labor services of installing or applying tangible personal property in connection with the *original construction* of a building or facility are not subject to sales tax. *Original construction* is defined as the:

- first or original construction of a new **building** or **facility**;
- addition of an entire room or floor to an existing building or facility;
- restoration, reconstruction, or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm (80 mph or more), ice loading and attendant winds, terrorism, or earthquake. *Utility structure* means transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility;
- completion of any unfinished portion of an existing building or facility;
- construction, reconstruction, restoration, replacement or repair of a bridge or highway; and
- remodel, restoration or repair of a **residence**.

The labor to remodel, restore, or repair **commercial** real property is subject to Kansas retailers' sales tax at the rate of tax in effect where the work is performed.

A *building* is only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, including the land improvements immediately surrounding the building. A *facility* is a mill; plant; refinery; gas, oil or water well; feedlot, and transmission and distribution lines owned by REAs and municipalities. A *residence* is an enclosure where individuals customarily live, including homes, apartments and dormitories. Special rules apply to dormitory and other school housing.



A university is rebuilding one of its buildings damaged by fire. The labor services performed by the contractors and

subcontractors to reconstruct the building are exempt from sales tax as *original construction*, since the damage was caused by fire. In order for the materials to be exempt from sales tax, the university must either purchase the materials directly, or furnish a PEC to its contractors who are buying them.



A university is remodeling its basketball arena by expanding its size and updating the interior of the entire structure. The labor services on some parts of the job are exempt as *original construction*, such as the addition of a new wing for athletic department offices and locker rooms. The remainder of the labor services for this project, such as the resurfacing of the basketball court, installation of new seating and painting and remodeling of the arena's public rest rooms, are taxable as commercial remodel work.

Therefore, unless the university has presented its contractors with a PEC, these components of the arena remodel are subject to sales tax:

- All project materials furnished by the contractors and subcontractors.
- Rental of any construction equipment by the contractors and subcontractors.
- **Subcontractor** labor on the commercial remodel portion of the project).

Without a PEC, the only components of a project that are exempt are the direct purchases by the school of materials or of the general contractor's labor services.

PROJECT EXEMPTION CERTIFICATES (PECs)

As illustrated in the previous examples, schools and educational institutions should obtain a PEC in order to extend their sales tax exemption to all parts of a real property project. Kansas sales tax law provides the mechanism that is to be followed to do this at K.S.A. 79-3606(d):

"...When any... public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an **exemption certificate for the project** involved, and the contractor may purchase materials for incorporation in such project."

A PEC is a numbered document issued only by KDOR or its authorized agent. A PEC exempts the entire project — materials and labor — from sales tax.

A project exemption cannot be used as a blanket exemption. It applies **ONLY** to a specific project and **EXPIRES** upon completion of that project. To avoid the additional cost of sales tax on project materials and on the materials and labor services furnished by subcontractors, you should obtain a PEC for each building project that qualifies to receive one.



IMPORTANT: Not all projects undertaken by a school qualify to receive a project exemption. See *Taxable Projects*, herein.

Obtaining a Project Exemption

ON-LINE – AGENT STATUS. Because schools and school districts are eligible for *Agent Status*, they should apply for PECs on-line through the KDOR web site. With this process, the political subdivisions can **print** the PEC **immediately** after making application on-line. Just follow these steps:

- 1) Visit ksrevenue.org/pecwelcome.html and click on **Submit PEC Requests**. Log into the Kansas Tax Center.
- 2) The first time a school applies for a PEC on-line, they will want to indicate *Agent Status Exemption Certificate* and then complete the PEC application.
- 3) Once approved for Agent Status, all **PEC requests submitted on-line will be automatically approved** and a PEC may be printed immediately.
- 4) **No recordkeeping by the school is required.** In the past, schools with Agent Status had to complete a spreadsheet recording issued PECs. These reports were then submitted to KDOR. These recordkeeping duties have been eliminated by the on-line procedure outlined above. Schools will want to keep a copy of all PECs in their records for at least five years.

PAPER METHOD. If you prefer to obtain a project exemption through the paper process, complete a Request for Project Exemption Certificate (PR-76). Try to apply at least 2 weeks in advance of the project; it will assure that you have received the certificate prior to the purchase of any project materials or labor.



CAUTION: PECs are dated and are not retroactive. All materials and taxable labor services purchased or performed by contractors prior to the effective date of the PEC are **taxable**.

However, if you fail to secure a project exemption certificate in time for your contractor(s) to use the exemption for all or part of their project purchases, you may apply to KDOR for permission to seek a refund of the sales taxes paid to your contractors' suppliers that would have been exempt had a project exemption been in effect. This refund process is outlined in K.A.R. 92-19-66e(n)(1). Submit such requests for refunds to KDOR on Form ST-21PEC (available on our web site).

Project Exemption Steps

These steps illustrate how a project exemption is used by all affected parties.

- 1) School completes a Request for Project Exemption (PR-76).

- 2) KDOR receives and approves or denies the request.
- 3) If approved, KDOR issues a numbered Project Exemption Certificate (PEC) to the school.
- 4) The school furnishes the numbered PEC to the contractors and subcontractors for the job.
- 5) Contractors and subcontractors furnish the numbered PEC to their suppliers.
- 6) Suppliers use the PEC number on all project invoices to verify the sale of materials* and/or labor for the project is exempt.
- 7) When the project is complete, contractor(s) will furnish a Project **Completion** Certification to the school with a copy to KDOR.
- 8) Contractor(s) keep all project invoices for **five** years.

* Contractors must accrue (pay) sales tax on any materials purchased with a PEC that are not incorporated into the project or returned to the supplier for credit.



CAUTION: A school with agent status may only issue PECs for **wholly-owned** projects. It cannot issue a project exemption for a joint project with another entity. When a project involves two or more entities, such as a joint project between a city and a university, a separate application for project exemption must be filed with KDOR.

TAXABLE PROJECTS

These two kinds of school building projects do not qualify to receive a project exemption:

- Dormitory/school housing projects
- Turnkey projects

Dormitories And Residence Halls

The sales tax exemption for schools contains an **EXCEPTION** for the property and services used to erect, construct, repair, enlarge or equip buildings used primarily for human habitation. In other words, an educational institution is generally **not exempt** on property or services purchased for its dormitories or other types of student or faculty housing.

However, *residential labor* services are not taxed; school dormitories and residence halls are considered *residential* since they are *enclosures within which individuals customarily live*. Therefore schools must pay the sales tax on all materials, supplies, fixtures and furniture used to construct, repair, enlarge and equip its dormitories and residence halls, but **labor services** on the **residential** areas of these buildings are not taxed.


To determine the tax treatment of an item or service for a dormitory or residence hall, KDOR follows the interpretation outlined in Attorney General Opinion

85-179 in addition to the exempting statute, K.S.A. 79-3603(c).

General Rules: Capital items purchased for a dormitory are taxable, and maintenance purchases are exempt. Furthermore, labor services on the portion of a dormitory where students live are not taxed due to the residential component of *original construction*.

Taxable capital dormitory purchases include materials for construction, remodeling or repair due to **damage**; and furnishings, such as beds, bathroom fixtures, blinds, desks, furniture, and lamps. Materials used in dormitory projects are always taxable, whether purchased directly by the university or by its contractors. Sales tax must also be paid on the taxable labor services performed in the dorm areas that are not *residential* in nature.

Nontaxable dormitory maintenance includes repairs due to normal wear and tear, and elevator or pest control maintenance contracts. Also not taxed are the labor services performed in the residential areas of the building. Residential areas include the dorm room, bathroom(s) or shower facilities. Common areas such as hallways, laundry, exercise and dining rooms are not exclusively residential in nature, and are therefore taxable unless the labor is a direct purchase by the educational institution.

 Over the summer months you are having a dormitory remodeled. In addition to rooms and bath facilities for students, this residence hall houses a dining room open to students only, TV & game room, computer/study area and laundry facilities. **MATERIALS - FULLY TAXABLE.** You must pay sales tax on all the materials purchased for this building remodel. **LABOR SERVICES - PARTIALLY TAXABLE.** Since the dormitory has areas that are not *residential* in nature, not all of the labor services performed for the project qualify for exemption as *residential* construction. Therefore the charges for labor services of the general contractor and the subcontractors must be apportioned between the residential labor (not taxable) and the nonresidential labor (taxable).

FRATERNITY AND SORORITY HOUSES

As a general rule, fraternity and sorority houses are owned or rented by the individual organizations and are not owned by the school. If students live at the house, the exemption for residential labor services would apply, but all materials would be taxable. There is no other exemption available to fraternities or sororities for materials and labor to build or maintain a house.

Turnkey Projects

Turnkey projects are those projects where the school or educational institution merely enters into a contractual agreement to buy completed real property from the contractor. Turnkey projects are not exempt.



A college agrees to purchase duplexes adjacent to its campus from the contractor who is currently renovating them. The college plans to use them as student housing. Although the college has input into the ongoing remodel work as the buyer under contract for the property, the contractor's renovation and remodel work on the home does not qualify for a project exemption. **Sales tax applies on the materials but not on the labor** (residential labor is not subject to sales tax).

Once the duplex remodel is complete and the college takes title to the property, the tax treatment of future labor and materials purchased for the student housing will follow the same rules as for other college-owned dormitories and residence halls discussed on this page. Furnishings are taxable; maintenance and residential labor services are not taxed.

TAXATION OF SCHOOL ACTIVITIES

GENERAL RULES

Although public or private schools and educational institutions are exempt from **paying** sales tax on their direct purchases of goods or services, they are not exempt from **collecting** sales tax when making retail sales to the final consumer. Kansas sales tax law traditionally requires governmental units, nonprofits and other organizations to collect sales tax when they are competing with private enterprise by making retail sales, regardless of how the proceeds of the retail sales are used. When a school or educational institution, school club or organization (except a PTA/PTO) is selling tangible personal property at retail or furnishing any of the taxable services enumerated in the law, or is providing entertainment to the ultimate user or consumer, it must collect and remit the applicable state and local sales tax from its customers. A representative, but not exclusive, list of taxable sales by schools is contained herein.

This section explains in greater detail the proper tax treatment of typical school situations and school-related activities. Much of the discussion is taken from written KDOR advice in notices and private letter rulings. This written advice is also available to the general public as part of the Policy Information Library on our web site. If you are in doubt about how Kansas sales tax applies to a specific school situation, contact KDOR for advice.

ACTIVITY FEES

Activity fees **separately enumerated** for sporting, cultural, musical, historical, etc. events are taxable. The separately-stated activity fee constitutes an admission to school activities, whether only specific types or all-inclusive. Fees for use of an athletic, recreational or

entertainment facility are also taxable. Activity fees that are assessed to each student upon enrollment for which the student does not receive any specific material benefit are not taxed.



A university has a fitness center and access is included in the general activity fee paid by students as part of their tuition and is not separately stated. Use of the center is free to faculty and staff showing a university ID. It is also open to the public upon payment of a usage fee. The university will charge sales tax on fees charged to the public. The student's fee is not taxable because it is not separately stated and there is no sales tax to faculty and staff since there is no admission sold.

ACTIVITY FUNDS

Many schools use an activity or a building fund to pay for purchases used by the school, school club or organization. If the activity fund is a fund of the public school and the transaction is a direct purchase by the school (or its PTA - see *PTA/PTO* on page 15), then purchases made with activity fund monies are exempt.



The high school drama club collects money from students for a theater trip and pizza party. The money is deposited into the school's activity fund and the school writes checks to the theater and pizza restaurant. These purchases with activity fund monies are exempt from sales tax as a direct purchase by the school.

However, if your school merely organizes a trip to an art museum, amusement park, skating rink, etc. and students pay their own way, the students will pay sales tax on their admission and food purchases.



CAUTION: Whether the school is reimbursed or not, a direct purchase of goods or services by the school for school purposes is an exempt purchase - the school is the final consumer. This is in contrast to the retail sale of goods or services by a school; the school must charge tax to its final consumers - its students or the general public.



Your school is selling T-shirts to promote school spirit. Orders are taken from students, parents, etc., and the T-shirts are purchased with school funds (without tax). The school must charge sales tax on the shirts. However, if the shirts are sold by the PTA, the sale is not subject to sales tax.

Building Funds

Some schools have a building fund into which are deposited the proceeds of fund raising sales by students, teachers, and other building sponsors. If funds raised are expended by the school or its PTA/PTO directly, purchases with the funds would not be taxed.

However, if the teachers and others raising the funds are also spending them, the items purchased with these funds are going to be subject to sales tax. To avoid sales tax, most individuals and organizations raising money for a school will donate the funds raised to the exempt entity (school or PTA) to purchase the equipment—such as computers. This practice allows the school to claim exemption from sales tax that the organization or teacher does not have.

ADMISSIONS and TICKET SALES

The retail sale of an admission to any place that provides amusement, entertainment or recreation is generally subject to sales tax in Kansas. (The admissions that have been granted an exemption by the legislature are listed in Pub. KS-1510; they do not usually have a school application.)

Kansas schools, educational institutions, booster clubs, PTAs and PTOs must collect sales tax when selling admissions or tickets to concerts, dances, dinners, fun nights, plays and sporting events. A PTA/PTO is only exempt from collecting sales tax on articles of tangible personal property.

Ticket Sales

The sale of tickets that can be exchanged for food or beverages at a fun night, or allow the holder to play carnival games, participate in a cakewalk, to use a *moonwalk* are taxable. Tickets that can be exchanged for prizes, awards, etc. are also taxable. Meal tickets at school cafeterias are discussed herein.



An elementary school is having a chili supper and fun night. Tickets for the supper are \$4 in advance and \$5 at the door. Additional tickets can also be purchased for 50 cents each that allow the holder to play games. All tickets sold are subject to sales tax.

Collecting Tax on Admissions and Tickets

The sale of admissions or tickets is one of several types of retail sales where the sales tax is included in the price rather than added separately. However, just because the tax is included in the price does not mean that the tax is borne by the school. **Sales tax is to be paid by the consumer.** When sales tax is included in the price charged, make sure you factor in the tax amount so that you are sure of recovering costs.



The tax rate in your area is 7.9%. In order to make a profit on a fund-raising activity you need to charge at least \$9 per person. Since the tax on \$9 is 71 cents, consider charging \$10 for the ticket so your profit margin is not decreased by the sales tax due and payable by your customers.



IMPORTANT: To accurately report the sales tax on sales made in this manner, follow the procedure in the vending machine example on page 19.

AUCTIONS

Many schools, alumni groups and endowment associations raise funds by holding a charity auction. All parts of this event are subject to sales tax.



Your alumni association is holding its annual auction party to benefit the university. Tickets cost \$50; \$25 of which is a tax-deductible donation. A meal and beverages are served; alcoholic drinks are sold separately. During the evening guests bid on silent auction items, followed by a live auction. Auction items are donated, purchased by the association at cost, or sold on consignment. The sales tax treatment of each component of this event is outlined below.

Tickets - Included or factored into the \$50 ticket price is the state and local sales tax. The ticket is an admission and is taxable, whether the buyer attends the function or not. See *Admissions and Ticket Sales*.

Meals and Beverages - The association should buy these items without tax from its vendors, using a *Resale Exemption Certificate*. Since the food and beverages are being resold as part of the \$50 ticket price, sales tax is being collected on the cost to the consumer.

Alcoholic Drinks - Included in the retail sale of alcoholic drinks is the 10% retail liquor drink tax. A special license is required.

Door prizes - A door prize is either purchased or donated and given to the winner of a drawing. The alumni association must pay sales tax on items purchased. The sales tax due on new items donated by a local business will be paid by that business as *Merchandise consumed and purchased without tax* on its sales tax return. The winner receives the prize for free, so does not pay any sales tax on it. See also *Raffles*.

Auction items - Sales tax is due on the total price paid by the guests on the silent and live auction of items of tangible personal property, whether bought, donated or sold on consignment by the association. The auction is taxable because the items being sold were acquired with the intent of reselling them (see *Isolated or Occasional Sales*). The association should not pay sales tax on any auction item purchased, but would *factor out* the sales tax that was included in the amount paid by the guest for the item. If using *labor auctions* as a fund-raising tool, where volunteers offer to do work for whoever is the high bidder for that respective service, these sales are not taxable.

Vehicles - If the alumni association purchases a vehicle as a prize to the winner of a drawing or raffle, the direct purchase is taxable. The subsequent transfer of the vehicle to the winner of the drawing or raffle is considered to be a *gift* and not subject to sales tax. However, if the alumni association does not purchase the vehicle, but rather title is transferred from a dealer

directly to the winner of a drawing or raffle, the winner is liable for the sales tax on its fair market value directly to the vehicle dealer. Whenever the sales tax has not been paid by either the vehicle donor or vehicle winner to this state or another state, the winner will pay sales or use tax to the country treasurer when registering it. (K.A.R. 92-19-30)

BOOSTER CLUBS

Booster clubs are organized and operated to benefit a specific school program such as sports, music or drama. Booster clubs must register and collect sales tax on all retail sales of property, taxable services or admissions, even though all proceeds from their activities are used to support a school program. Booster clubs must also pay sales tax on all of their purchases of goods (except resale inventory) and taxable services.

Booster clubs and similar organizations that operate in support of a particular program or activity usually do not qualify for exemption as a PTA or PTO. They do not encompass the broad objectives of a PTA/PTO, and do not qualify as a PTA or PTO, even though they may be composed of parents, teachers, students, businesses and others interested in the school or in a particular facet of the educational process.

CAFETERIAS, LUNCH ROOMS AND FOOD SERVICE

GENERAL RULE: IF A SCHOOL'S EATING FACILITY IS OPEN TO THE PUBLIC, THE FOOD AND DRINKS SOLD ARE SUBJECT TO SALES TAX. IF THE EATING FACILITY IS NOT OPEN TO THE PUBLIC, ITS SALES ARE NOT TAXABLE. (K.A.R. 92-19-21).

This rule is again a reflection of the general goal of Kansas sales tax - not to create an unfair tax advantage. If the lunch room, cafeteria, or dining room is operated by the school solely for the purpose of providing meals for its students, teachers and staff, the school is not considered to be engaged in the business of regularly selling meals or drinks to the public, and therefore is not required to collect or remit tax on these sales.



A middle school operates a cafeteria that is open only to students, teachers and staff of the middle school and an adjacent high school, and other school administrators and staff visiting the premises. The cafeteria would not collect sales tax on the meals sold.

However, when an educational institution's cafeteria, lunch room, or dining room is open to the general public, the school is considered to be in the restaurant business and just like any other restaurant, must collect and remit sales tax on all of its sales. Therefore, cafeteria and other food sales are considered taxable unless the cafeteria is **closed** to the public. Signs as to admission to the room will not be accepted unless the school can show that they visibly and actively police exclusion of non-school personnel. Snack bar sales are taxable.

Meals, snacks or beverages sold to off-campus groups or student organizations are taxable. Sales of these items to the school directly are not taxable.

Your college cafeteria charges \$50 to provide cookies and coffee for a workshop held in your student union, but sponsored by an outside organization. The cafeteria must charge sales tax on this sale, unless the outside organization is exempt, such as a city or school district.

Contracted Food Services

A caterer or concessionaire operating a cafeteria, lunch or dining room on the premises of any public or private elementary or secondary school or public or private nonprofit educational institution shall collect and remit sales tax on its sales to the public.



A university contracts with XYZ Corp. for food service on campus. This includes a restaurant and snack bar in the student union, and any food served on-campus for meetings, seminars and other events. As the food service vendor, XYZ Corp. must be registered to collect sales tax on all of its food sales to the public and off-campus organizations.

Direct sales to the university would be exempt with a completed exemption certificate. However the university would pay sales tax on its indirect sales of food or beverages provided as part of an event/seminar for which a fee is charged.



A university's School of Education is conducting a continuing education seminar for teachers. Included in the \$50 seminar/registration fee is a \$15 charge for lunch provided by its food service contractor, XYZ Corp. The \$15 lunch charge is taxable.

Meal Cards or Tickets

Semester meal cards used at a cafeteria closed to the public are not subject to sales tax.



For \$700 a semester a dorm resident may eat at any of the university's students-only dining halls (closed to the public). This meal card is not taxable.

However, a meal card that entitles the holder to eat at a cafeteria open to the public is subject to sales tax.



You offer a monthly meal card to students, faculty and staff. For \$200 the holder may dine in cafeterias open to dorm residents only and the student union facility open to the public. The sale of this type of meal card is taxable as it entitles the person to eat anywhere on campus.

The sale of other types of cards may or may not be taxed. The sale of a munchies card entitling the student to obtain pop and snacks is taxable. Some educational

institutions sell a convenience card to students. It comes in various monetary amounts, may be *recharged*, and is designed to be used by the student instead of cash for all types of campus purchases. This is really a "charge card" and included in the price paid or charged for any item will be the applicable sales tax on the sale of the item. The sale of the card itself is not taxable.



As a convenience to students for campus transactions, you offer a rechargeable *university card* in several monetary denominations. It is designed to be used by the student instead of cash for purchases at the bookstore, snack bar, computer lab, cafeterias, etc. The student does not pay sales tax on the card itself, but included in the total price paid for items purchased with the card will be any applicable sales tax.

FUND-RAISING

Fund-raising activities are an integral part of the funding of schools and educational institutions. A common misconception is that the sales tax does not apply if the proceeds of a fund-raising activity are for the exclusive use of the exempt school or educational institution for school purposes. This is not the case.

Although exempt on its purchases, a school or an educational institution is not exempt from collecting sales tax on its taxable fund-raising activities, such as the retail sale of admissions, goods or services listed earlier in this publication. Only a sale that meets the qualifications of an *isolated or occasional sale* as defined herein is not taxed.

Booster clubs and most student organizations must also collect sales tax on taxable fund-raising events. Only PTAs/PTOs and certain nonsectarian youth organizations are exempt from collecting tax on retail sales of merchandise, but must still collect tax on sales of admissions and services.

For more information about the tax treatment of a particular group or fund-raising activity, consult the topics in this guide (Auctions, PTAs/PTOs, Student Clubs and Organizations), and/or use the Policy Information Library on our web site.

Buying fund-raising items for resale

Another common misconception about fund-raising sales is that if an organization, school or individual pays the sales tax when it buys its inventory, it does not have to collect sales tax on its retail sale of that item. This is also not true.

Sales tax is designed to be paid only once - by the final consumer or user. A school or student organization (except a PTA/PTO) making retail sales (to the final consumer) is required to obtain a tax registration and collect sales tax on its sales. Therefore it is not the final consumer of the fund-raising items and should not pay

the sales tax on them. Paying sales tax on resale inventory merely increases the cost of goods sold.

When buying your resale inventory you should provide the vendor with a Resale Exemption Certificate, (ST-28A). By using this certificate you have documented to the seller that: 1) you are a registered retailer; and 2) that the items being purchased will be resold, and are not for personal or other non-exempt use.

GOLF COURSES

Several state universities operate golf courses. These courses are used not only to train golf teams and/or students in the management and design of golf courses, but are also open to the public. **Fees charged to teach or instruct students** in the game are **not taxable as long as** a taxable item (golf course admission, clubs or other tangible personal property) is not included in the fee. The university must collect sales tax on all of its retail sales of admissions and goods, including but not limited to:

- Driving range fees
- Golf cart or club rentals
- Greens fees and golf memberships*
- Pro shop sales - equipment, sportswear, etc.
- Restaurant/snack bar sales
- Spectator fees

* Only the fees charged by a **political subdivision** (city, school district, etc.) for participation in sports and other recreational activities are exempt from sales tax at K.S.A. 79-3603(m).

ID CARDS

Most secondary schools and educational institutions issue some type of student identification card to their students. If there is no admission granted or tangible personal property transferred, the fee charged to issue an ID card or reissue a lost or stolen card is not subject to sales tax. In these instances, the card remains the property of the school or educational institution.

However, if the card has another use in addition to identification (such as use of school gym facilities, food purchases), the student ID card fee will be taxable. In this situation, a fee to issue or replace a lost or stolen card is also subject to sales tax.



You require all students to carry a photo ID card issued by the school. You take the digital photo and print/laminate the card for a fee of \$5, and also charge \$5 to replace the card. This card is for ID purposes only. The \$5 charge for the card is not subject to sales tax.



You issue a student activity card to all students. The card is a photo-ID, and also entitles the student to admission to games and other school events based on the

level and amount of student activity fees paid. The fees to obtain or replace this type of card are taxable.

ISOLATED OR OCCASIONAL SALES

An instance where a school or educational institution might not be required to collect sales tax on a retail sale of goods, admissions or taxable services is when its sale qualifies as an *isolated or occasional sale*.

Any sale by a Nonprofit Entity (such as a school) that meets the following requirements qualifies for the isolated or occasional sales tax exemption:

- a. All proceeds derived from the fund-raising event shall be used by the nonprofit entity to further its exempt purpose.
- b. The fund-raising event shall not be in direct competition with a for-profit business (in the same area or at same event).
- c. The fund-raising event shall not take place at a retail business's premises during regular business hours.
- d. Sales at the fund-raising event shall be made by members or the nonprofit entity and not by a retailer, or other for-profit business.
- e. If a not-profit entity buys goods to resell at a de minimis fund-raising event, the nonprofit entity SHALL PAY SALES TAX on the purchases unless the entity is a religious organization. A religious organization may purchase goods without sales tax intended for resale at a de minimis fund-raising event. A non-profit entity shall not be required to accrue sales tax on items that are donated for sale at its fund-raising event.
- f. The gross receipts from sales at the nonprofit entity's de minimis fund-raising events during any prior calendar year shall not exceed \$25,000. If the gross receipts exceeds \$25,000 in any calendar the nonprofit entity shall register as a retailer and collect sales tax on all future sales.
- g. Each nonprofit entity shall be limited to not more than six fund-raising events of not more than a day's duration, during any 12-month period.

LABOR SERVICES

Like the sale of admissions and tickets, the sale or providing of taxable labor services for a fee by a school, educational institution, alumni group, PTA or PTO is subject to sales tax. Examples of taxable labor services often provided or offered by school and school organizations are car washes and vehicle repair.

Nontaxable Fees and Services

Some fees and services are not subject to sales tax because they do not involve the installation, application, repair, service or maintenance of tangible personal

property. Fees or services that are not subject to sales tax include but are not limited to:


- Building/room rental
- Child care
- Consulting services
- Fee for the first copy of a transcript or school record
- Fees for seminars, training and workshops
- Hair & nail care for people
- Mowing/Tree trimming
- Library fines and fees for lost or stolen books
- Locker rentals
- Medical or dental services
- Parking fees and permits
- Photo sitting fees (if the fee is for the sitting only – the student does not receive a photograph)
- Reimbursement for lost or damaged school equipment or property
- Research and testing services
- Snow & ice removal services
- Trash service
- Tuition
- Veterinary services

When in doubt about the sales tax treatment of a fee or service not listed here, contact the KDOR for advice. See *Taxation Resources*.

LEASES AND RENTALS

Kansas sales tax applies whether the item of tangible personal property is being sold at retail, rented or leased. Schools must collect sales tax on the lease or rental of all items except nonsectarian textbooks. The rental of nonsectarian textbooks is specifically exempted at K.S.A. 79-3606(h). See also *Textbooks*.

Schools that rent musical instruments, padlocks, sports equipment, videos, etc., must collect sales tax on each rental or lease payment. While the school itself may rent or lease equipment and musical instruments without tax, when the school rents these items to its students, the lease/rental is taxable.

 **IMPORTANT:** The rental or lease of **real property** is not subject to sales tax. The fees charged by a school for use of its building, auditorium, sports field, etc. are not taxable. However, if the building rental is included in a fee charged for a taxable event or service, and is not separately stated, it would be subject to sales tax as part of the *gross receipts*.

PTAs/PTOs

Parent-teacher associations or organizations (PTA or PTO) are granted a sales tax exemption under K.S.A. 79-3606(yy). A PTA/PTO is exempt on:


“all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;”

Like the school it supports, a PTA/PTO is exempt from paying sales tax when buying goods or taxable services. A qualified organization will use the Tax-Exempt Entity Exemption Certificate (PR-78PT) to claim its exemption.

However, unlike a school, a PTA/PTO is also exempt from collecting sales tax on its sales of tangible personal property. Also exempted are sales of tangible personal property by others on behalf of a PTA/PTO. This exemption from collecting sales tax on sales of goods or merchandise makes a PTA's exemption broader than the exemption for the school for which it is working.



Sales tax is not due when birdhouses, concessions, fireworks, flowers, T-shirts, and other types of tangible personal property are sold by a PTA, or by a school or other organization on behalf of its PTA. However, when a school is selling tangible personal property on its own behalf, it must collect sales tax.

 **IMPORTANT:** Note that the exemption cited in K.S.A. 79-3606(yy) applies **ONLY** to sales of tangible personal property by a PTA or by others on behalf of a PTA. PTA/PTO organizations must still register to collect and remit sales tax when they are providing taxable services (car washes) or selling admissions (tickets to concerts/fun nights, etc.).

PTA/PTO Defined

For purposes of the exemption, a *parent-teacher association* (PTA) means a nonprofit parent-teacher association chartered by the National PTA or Kansas PTA. A *parent-teacher organization* (PTO) means a nonprofit parent-teacher organization that is functionally equivalent to a *parent-teacher association*. A PTA or PTO is authorized to operate within a public or private school by the governing authority of the school. For the purpose of the PTA exemption, a *school* is defined as an institution that meets the compulsory attendance provisions of K.S.A. 72-1111.

To be exempt, a PTA/PTO must:

- operate for the benefit and support of an individual school;
- have a defined organizational structure, purpose, and goals; and
- be recognized by the school as a PTA or PTO.

A PTA/PTO provides programs within a school that promote the education, health and safety of children. Generally, there is only one PTA/PTO within a school and it would have long-term goals and objectives and numerous programs operating within the school.



CAUTION: Booster clubs and similar organizations comprised of students, parents and teachers do not qualify to claim exemption as a PTA or PTO. See *Booster Clubs, and School Clubs and Organizations*.

PHOTOCOPYING, PRINTING & DUPLICATING

Photocopying, printing and duplicating services are subject to sales tax. Print shops operated by schools and educational institutions must charge sales tax on all print jobs billed to student groups, outside entities and the general public. Sales to an educational institution or to another exempt entity are not taxable.



The university print shop charges \$50 to print a program for an alumni group. This charge is subject to sales tax. Playbills and programs ordered by the university's drama department are exempt as a direct purchase.



The library has several copying machines available to students. The copier vends copies at 10 cents each. These copies are taxable - included in the 10 cents per copy is the applicable sales tax due. If the copier is owned by the library or university, it must report and pay the sales tax; if owned by another entity, that business will report and pay the tax on the copy sales. See also *Vending Machine Sales*.

Exception: The fee charged for the first copy of a student's transcript or other document is not subject to sales tax. This is considered to be the purchase of information, which is not taxable. However, subsequent copies of a transcript or other document are considered to be the sale of copying services and are therefore subject to sales tax.



A former student requests six copies of his official transcript mailed to him. You charge \$3.00 for each copy, postage included. The tax rate at the former student's Kansas address is 7.3%. Your bill for the transcripts will be $(5 \times \$3.00 \times .073) + \3.00 (first copy not taxed) = \$15.00 + 1.10 tax + \$3.00 = \$19.10. If the former student resides in another state, no Kansas tax is due. See also *Out-of-State Sales*.

RAFFLES

A raffle is a fund-raising event in which a number of people buy tickets or *chances* to win a prize. The winner is usually selected by a drawing. Sales tax is due on the purchase of goods or merchandise to be raffled; sales tax is not due on any prize that is not taxable, such as a cruise or cleaning service. The subsequent transfer of the item to the winner is considered to be a *gift* from the organization to the winner, and therefore is also not subject to sales tax, except certain motor vehicle

transactions discussed herein. The sale of tickets or chances for a raffle is not subject to sales tax.

RESTAURANTS, MEALS

As has been discussed, the exemption for schools and educational institutions does not extend to their individual employees. Purchases of restaurant meals made by employees with their personal funds are not exempt. This is true even when the employee is on official business for the school, such as a luncheon for school administrators, or when the meal or banquet is a school activity, such as an awards dinner.

Like hotel and motel charges, rental car fees, etc. the purchase of restaurant meals for school employees are exempt only when purchased on their behalf directly by the school or educational institution, using the definition of a direct purchase. If the employee is in possession of a credit card for the school, the card should not be used for restaurant meals except as authorized by the issuing school authority.

SCHOOL BUSES/FUELS

General Rules

The direct purchase, lease or rental of a school bus is exempt when purchased, leased or rented by tax-exempt entity like a school or school district. A nonprofit school or a school district is also exempt from paying sales tax on its direct purchases of parts and repair or maintenance services for a school bus.

Fuels used in school buses (whether the bus is owned by a school, school district or is privately owned) are not subject to the motor fuel tax, having been granted an exemption under K.S.A. 79-3453. See *Motor Fuel Tax*. Unless eligible to purchase dyed diesel fuel, the motor fuel tax is included in the price paid for gasoline, diesel and other special fuels at the pump by all consumers. School bus operators (school districts and others leasing buses to schools) may apply to KDOR for a refund of the motor fuel tax paid on fuels for use in school buses.

School Bus Defined

A school bus is defined as any motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and which is:

- 1) Privately owned and contracted for, leased or hired by a school district or nonpublic school for the transportation of pupils, students or school personnel to or from school or to or from school-related functions or activities; or
- 2) owned and operated by a school district or nonpublic school which is registered under the provisions of K.S.A. 8-126 et seq., and

amendments thereto, used for the transportation of pupils, students or school personnel to or from school or to or from school-related functions or activities (See K.S.A. 72-8301(g)(1), K.S.A 8-1406 and K.S.A. 79-3401).



CAUTION: Not all vehicles used by a school to transport its students are *school buses*. For example, a SUV, van or other vehicle not designed to carry more than ten passengers is not a *school bus* even when it is owned and operated by a school district to transport its students. Since this type of vehicle is not a *school bus*, the motor fuel tax paid on the fuel is not eligible for refund.

Refund of Motor Fuel Tax

Any motor vehicle that meets the definition of a school bus will be eligible for a refund of motor fuel tax paid on motor-vehicle fuels or special fuels used for the transportation of pupils, students or school personnel to or from school, or to or from school-related functions or activities. The *buyer* of the fuel must obtain a Motor Fuel Refund Permit. All requirements under the motor fuel refund provisions will apply to the permit holder.

To apply for a Motor Fuel Refund Permit you will need to complete the application, Form MF-51. There is a \$6 fee. Once processed, a refund permit and claim card to request your refunds will be sent to you. Refund permits are valid for three years; renewal applications are automatically sent when the permit is about to expire.

Refund claims for motor fuel tax paid on gasoline or clear diesel fuel that you purchase for use in your school buses may be submitted at any time. However, each refund request must be over \$25, and submitted within ONE YEAR of the date of the fuel purchase. Original receipts or pre-approved statements (such as credit card statements from the gas station) must be submitted with the claim card. A new claim card is mailed with each refund payment.



CAUTION: KDOR will cancel the refund permit of any claimant making a false statement on the application for a permit or on a claim for refund. Permits will also be cancelled if it is found that the permit holder is using the fuel for which a refund is claimed in any motor vehicle except a school bus. (K.S.A. 79-3455)

If you have questions about the application, permit or refund process, please contact our Motor Fuel Refund Section at (785) 368-8222.

Dyed Diesel Fuel

Dyed diesel fuel is only for non-highway and non-tagged vehicles. School buses that are owned and operated by a school, school district or private school are not required to be tagged if the *name of the municipality, school district or nonpublic school is plainly*

painted thereon (K.S.A. 8-128). Therefore, if a non-tagged school bus uses diesel fuel, the school may purchase dyed diesel for it. Since there is no state or federal tax on dyed fuels used in non-highway and non-tagged (registered) vehicles, no refund is applicable.

However, if you do not have access to dyed product for your non-tagged buses or only have storage for clear diesel, you may apply for a refund of the motor fuel tax on the clear diesel used in your school buses. A school district or private operator buying fuel for any school bus (tagged or not) that uses gasoline or clear diesel fuel must apply for a refund of motor fuel tax that is automatically included in the price paid at the pump.

Sales Tax on Gasoline and Special Fuels

The fuels on which a motor fuel tax refund is received are *automatically* subject to Kansas sales tax unless you can claim a valid sales tax exemption. Schools are exempt from paying sales tax on their fuels; private companies generally are not. The state and local sales tax due on these fuels is based on the location of the seller and the price paid for each gallon on which the motor fuel tax was refunded.



A nonprofit private school applies for a refund of the motor fuel tax paid on 1,000 gallons of gasoline costing \$1,420, and receives a motor fuel tax refund of \$230.

This school is exempt from paying sales tax, and will provide this information on the back of its motor fuel tax refund claim (MF-35).



A private bus company leases school buses to the school district. The buses use diesel fuel and are tagged in the company name. The bus company cannot purchase dyed diesel fuel. For the period of September 1 through December 31, the company purchased 8,000 gallons of clear diesel fuel; 5,000 of which were used for the transportation of pupils, students or school personnel to or from school or to or from school-related functions or activities. It applies for a refund of the special fuel tax paid from September 1 to December 31 (26 cents/gallon) on the 5,000 gallons of clear diesel eligible for refund, and receives a refund of \$1,250.

The private bus company, however, must now pay the applicable state and local sales tax on these 5,000 gallons of diesel fuel - it does not have an exemption available for the fuel use under sales tax law. It will report its fuel cost in the *merchandise consumed* section of the sales tax return and self-accrue the applicable tax due. The sales tax due on the fuel is based on the actual purchase price per gallon, at the state and local rate applicable to the actual location where the fuel was purchased. If the fuels are purchased in only one local taxing jurisdiction, the company will report the tax using the ST-16 filing process; if purchased in more than one locality, the ST-36 filing process must be used.

The private bus company, however, must now pay the applicable state and local sales tax on these 5,000 gallons of diesel fuel - it does not have an exemption available for the fuel use under sales tax law. It will report its fuel cost in the *merchandise consumed* section of the sales tax return and self-accrue the applicable tax due. The sales tax due on the fuel is based on the actual purchase price per gallon, at the state and local rate applicable to the actual location where the fuel was purchased. If the fuels are purchased in only one local taxing jurisdiction, the company will report the tax using the ST-16 filing process; if purchased in more than one locality, the ST-36 filing process must be used.

SCHOOL CLUBS AND ORGANIZATIONS

Most organizations that work with a school to raise funds to be spent on students and their extracurricular activities are not exempt. School organizations and clubs that are separate from the school or university must pay sales tax on all purchases of property or services for their use or for the school's use. Taxable student organizations and clubs include, but are not limited to:

- Cheerleaders, Pep Squads, Pep Clubs, Drill Team
- Chess club
- Class clubs (freshman, sophomore, junior, senior)
- Clubs for art, computers, history, music, languages, sports, science, etc.
- Fellowship of Christian Athletes
- Forensics Club and National Forensics League
- Fraternities and Sororities (honorary & social)
- Honor Societies (academic and specific fields)
- Journalism Society
- Kansas Association for Youth - KAY
- Letterman Club
- Ethnic Student Associations and Multicultural Clubs
- Music groups (band, choir, orchestra)
- National Honor Society
- ROTC/Jr. ROTC
- Student Council/Student Government Association
- Students Against Drunk Driving (SADD)
- Teens as Teachers

Like a school, these organizations and clubs must register and generally must collect sales tax on their taxable fund-raising activities. The fact that the funds raised are used to buy curriculum materials and equipment for a school is not a factor. As registered retailers, they will use a Resale Exemption Certificate (ST-28A) to buy their resale inventory without tax.

Exempt Organizations

Certain nonprofit, multidiscipline youth development organizations are exempt under K.S.A. 79-3606(ii). Like a PTA or PTO, a qualified organization will not pay sales tax on its purchases, and is exempt from collecting tax on sales of tangible personal property by or on behalf of the organization. It must, however, register to collect sales tax on its sales of admissions or taxable services. KDOR has determined that the following organizations qualify for the exemption and have been issued a Tax-Exempt Entity Exemption Certificate that details their exemption:

- Business Professionals of America
- Distributive Education Clubs of America (DECA)
- Family, Career & Community Leaders of America (FCCLA)
- Future Business Leaders of America
- Future Farmers of America
- Health Occupations Students of America
- Skills USA - Vocational Industrial Clubs of America
- Technology Student Association

A nonprofit day care provider may also qualify for exemption under K.S.A 79-3606(ii) - see the Day Care Q & A in our Policy Library. Other exempt school-related organizations are endowment associations and foundations, and PTA/PTOs. If you have a question about the sales tax status of a particular organization, contact KDOR for advice.

SEMINARS

Fees and charges for seminars and workshops are not generally subject to sales tax. Textbooks and materials provided as an integral part of the seminar and included in the fee charged may be purchased without tax by an exempt entity such as a school. If food is provided as a part of the fee, the charge for the food (voluntary or mandatory) is subject to sales tax.



A school administrator is attending a seminar sponsored by a teachers college. The college charges \$150 for the two-day seminar. The fee includes lunch and seminar materials. The charge for lunch is taxable unless it is a direct purchase by the administrator's school or school district.

A fee charged to attend a lecture or seminar open to the public would generally be viewed as a taxable admission. A lecture or seminar open to the public free of charge is not subject to sales tax.



An alumni group sponsors a breakfast lecture for \$25; this charge taxable. A university's lecture series offered free of charge to the public is not taxed.

TEXTBOOKS

The **rental of nonsectarian textbooks** by public or private elementary or secondary schools is specifically exempted from sales tax at K.S.A. 79-3606(h). *Nonsectarian* means that the book is not associated with, or limited to, a particular religious denomination. Since the textbook rental exception applies only to nonsectarian textbooks, the rental of a textbook of a religious nature by an elementary or secondary school is subject to sales tax.

NOTE: This exemption does not apply to institution of learning beyond the 12th grade. The rental of any type of textbook by a college, university or vo-tech school is subject to sales tax.

The **sale** of new or used books, including all types of textbooks, is subject to sales tax.

UTILITIES

Public and Private nonprofit schools are exempt on their direct purchases of the utilities of electricity, gas, water and heat, regardless of how the utility is used*. To obtain the exemption, complete and file your KDOR-issued tax exempt entity exemption certificate, with your

utility providers. For K-12 public schools, the school district usually handles the paperwork needed to obtain the exemption for each school building in the district.

* A school district (political subdivision) must pay sales tax on electricity, gas, water or heat used to **provide a taxable product or service to the public** unless the use qualifies for another exemption (such as ingredient/component part).

VEHICLES/EQUIPMENT

A school may directly purchase, rent or lease any type of vehicle or equipment without sales tax, including cars, heavy machinery, school buses and vans. There is also no sales tax on a school's rental or lease payments to the vehicle owner as long as the lease is between the exempt school and the vehicle owner and all lease payments are made with school funds.

A school may also purchase any repair and maintenance services on its vehicles without tax using its KDOR-issued Tax-Exempt Entity Exemption Certificate. This is a repair of tangible personal property so a Project Exemption Certificate is not required in order to purchase the materials tax exempt. However, when a school or school class is engaged in providing vehicle repair for a fee, it must charge its customers sales tax on these taxable services. In this capacity the school has become the retailer of a taxable service, and must collect sales tax from its customers just like a privately-owned automotive repair shop.



As part of its course work, your Vo-Tech heavy equipment class makes repairs on construction equipment. Customers are charged for parts and labor; the entire repair bill is taxable. If the construction equipment is owned by a business, the business pays the sales tax. If the equipment is owned by a county or other exempt entity, it must provide its KDOR-issued tax exempt entity exemption certificate for the sale to be exempt.

VENDING MACHINE SALES

Candy, snacks, school supplies, phone cards and other items sold from a vending machine are taxable. Kansas sales tax is due on the total sales made from any coin-operated device that dispenses goods, amusement (video games) or services (except laundry services). When the vending machine is owned and operated by a school, sales tax is due on the *gross receipts* received.

Since sales tax is automatically included in the price paid for each item sold through a vending machine, you will need to factor out the tax amount before reporting the total sales on your tax return. To determine the gross receipts without the sales tax (sales tax base), divide the total amount collected from the machine by 1 plus the state and local sales tax rate that is in effect where the machine is located (for example, 1.063 if the state and local tax rate is 6.3%).

How to *Factor Out* the Sales Tax



Your university owns the vending machines located in its dormitories and student union. Proceeds are used to fund a scholarship. One month's collections from the pop and video game machines is \$4,225.00; the tax rate in your city is 6.75%.

STEP 1 Calculate the sales tax base. Divide the total receipts by one plus the sales tax rate where the machines are located.

$$\frac{\$4,225.00}{1.0675} = \$3,957.85$$

STEP 2 Calculate the sales tax collected and included in the total *take* from the machines.

$$\$3,957.85 \times .0675 = \$267.15$$

STEP 3 Check your calculation. The total of steps one and two (the sales tax base and the sales tax) should equal the gross amount removed from the vending machine.

$$\$3,957.85 + \$267.15 = \$4,225.00$$

If you do not own the vending machine but merely receive a commission on the sales made from it, the vending machine owner will report the sales and pay the sales tax due. The receipts or commission received by the school as payment for placing the machine on school property is not subject to any sales tax.



Your school receives 25% of the sales made each month from the vending machines on school property owned by a vending machine company. The owner of the machines paid the Kansas sales tax on the total amount taken from the machines. The 25% commission paid to the school is not subject to sales tax.

VOCATIONAL TECHNICAL SCHOOLS AND TRAINING

As part of the instructional process, a school or educational institution may supplement classroom instruction with hands-on training. In the process of providing this type of work experience, a vo-tech may provide taxable services or make retail sales to the general public, such as the vehicle or equipment repair service illustrated earlier in this guide.

Vo-tech classes may also construct a home, storage shed or similar structure which is later sold. Even though the construction is undertaken by the school's class or classes for educational purposes, there are two distinct situations involving the construction and sale of this type of property where a school will incur a liability for sales tax. This section deals with the tax treatment of the materials and labor when a school builds real property (homes, garages, etc.) and/or tangible personal property (modular homes, furniture, sheds, etc.) for sale.

The Construction and Sale of Real Property

GENERAL RULE: MATERIALS—TAXABLE AS THE FINAL CONSUMER OF THE MATERIALS ON A REAL PROPERTY PROJECT. LABOR SERVICES—ORIGINAL CONSTRUCTION AND RESIDENTIAL LABOR IS EXEMPT; COMMERCIAL REMODEL WORK IS TAXABLE.

A school that is engaged in the construction of real property is functioning as a **contractor**, and as such is considered to be the final consumer of the materials used for the real property project. Like a private building contractor, the school is required to pay sales tax to its suppliers on all tangible personal property (materials) purchased for incorporation into a home, storage shed or similar structure which will be classified as real property when it is sold. Although generally exempt on its direct purchases, a school's exemption found at K.S.A. 79-3606(c) specifically does not apply to tangible personal property or services used *for the erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation*. Therefore, an educational institution cannot use its Tax-Exempt Entity Exemption Certificate to purchase **materials** for either its own residential property (dormitories, faculty or student housing) or for any *residential* real property it is constructing or repairing for resale; it must pay the tax on them.

However, the **labor services** to install or apply tangible personal property in connection with the original construction of a building or facility, or the construction, remodel or repair of a residence are not subject to sales tax. The exemption of residential labor services supersedes the prohibition against a school's purchase of residential labor without tax, therefore the labor purchased by the school to build or repair residential property (whether school property or a residential project for resale) is exempt. Only the labor on a commercial remodel project is taxable.

For the purpose of this publication, a home, storage shed or similar structure which is permanently affixed to the land on which it is located at the time it is sold should be classified as real property. Conversely, a home, storage shed or similar structure which is not permanently affixed to the land on which it is located at the time it is sold should be classified as tangible personal property.



A community college's vo-tech classes are building a home for ultimate sale; sale proceeds are used to buy materials for its next building project and other school needs. Much of the labor is supplied by the students, but outside contractors are used. **MATERIALS:** The college must pay sales tax to its vendors on all of the building materials, wiring, etc. used on the home. **LABOR SERVICES:** Labor services to construct, reconstruct or remodel a residential property are not subject to sales tax. **TAX ON THE SALE:** The sale of real property is not subject to sales tax.



A college's heating and air conditioning class is replacing the air conditioning compressor at a dental office. This is a commercial remodel project. **MATERIALS:** This real property project is not residential in nature, therefore the college may buy the compressor and other job materials without tax using its School or Educational Institution Exemption Certificate. **LABOR SERVICES:** Labor services on a commercial remodel project are taxable. **TAX ON THE SALE:** The college must charge the dentist sales tax on its labor services, profit (including any mark-up on the materials) and overhead.

The Construction and Sale of Tangible Personal Property

GENERAL RULE: MATERIALS—EXEMPT AS INGREDIENT OR COMPONENT PARTS OF TANGIBLE PERSONAL PROPERTY FOR RESALE. LABOR SERVICES—TAXABLE ON TANGIBLE PERSONAL PROPERTY UNLESS THE PROJECT QUALIFIES AS *RESIDENTIAL* OR THE *ORIGINAL CONSTRUCTION* OF A BUILDING OR FACILITY.

A school selling homes, storage sheds or similar structures classified as tangible personal property, as well as furniture, art, and other types of tangible personal property is considered to be a **retailer** of these items, and must collect sales tax on the gross receipts received from such sales (79-3603(a)). The rate of tax collected will be the state and local sales tax in effect where the buyer takes delivery of the property. However, as a retailer of tangible personal property, the school is entitled to purchase its raw materials without tax since the sales tax will be collected when the property is sold to the final consumer (retail sale).



A college's classes are constructing a modular home on campus. When complete, the home will be sold at auction and moved to the buyer's designated location. The sales tax treatment is as follows. **MATERIALS:** The college may buy the materials to construct this tangible personal property without tax using a *Resale Exemption Certificate*. **LABOR SERVICES:** The labor services of students are not taxed; the labor of outside contractors is not taxed since this project is the original construction of a residence. **TAX ON THE SALE:** The sale of a manufactured or modular home is subject to sales tax. However, the sales tax base is 60% of the home's value. K.S.A. 79-3606(ff). The tax will either be collected and remitted by the school or by the auctioneer.



A woodworking class builds furniture and bookcases for resale. **MATERIALS:** The school should purchase the materials without tax using a Resale Exemption Certificate. **LABOR SERVICES:** Student labor not taxed. The school may purchase the direct labor of outside contractors with a Resale Exemption Certificate. **TAX ON THE SALE:** The school must charge sales tax when the furniture and bookcases are sold to the general public at the state and local rate in effect where the customer takes delivery of the items.

TAXABLE SALES BY SCHOOLS AND EDUCATIONAL INSTITUTIONS

The following is a representative but not all-inclusive list of the types of sales by schools and educational institutions which are generally subject to sales tax. The examples illustrate the three general categories of taxable transactions:

- 1) Retail sale, rental or lease of tangible personal property;
- 2) Providing taxable services; and
- 3) Sale of admissions to any place providing amusement, entertainment or recreation.

If you are engaged in any of these activities (there is no required minimum amount of sales or tax due), you must register with KDOR (Department of Revenue) to collect sales tax from your students and other retail customers and then report and pay it to the department on a regular basis. For information about your responsibilities as a retailer, see *Retailer Responsibilities*, herein.

RETAIL SALE OF GOODS AND MERCHANDISE ¹

(includes renting or leasing of property)

Athletic equipment & shoes
Bake sales, doughnuts
Balloons
Books, workbooks and manuals (obsolete & others)
Class jewelry, pictures and rings (if the tax is not collected and remitted by the firm selling the merchandise)
Clothing - T-shirts, etc.
Concession sales (candy, hot & cold drinks, ice cream, nachos, popcorn, etc.)
Corsages, flowers and plants
Family and individual portraits
Fireworks
Food and beverages
Freight or delivery charges (when included in the cost of taxable items)
Graduation gown rentals
Graduation items (announcements, charms, mugs, robes, tassels, etc.)
Health supplies
Home economics projects
Jewelry
Lock rentals (separate from locker rental)
Magazine subscriptions
Meals (if open to the general public)
Musical instrument rentals
Newspapers and periodicals
Party food items
Printing and duplicating charges
Reproduction of printed materials
School pictures
School supplies (pencils, paper, notebooks)
School supply kits

Shop & art projects
Sporting goods, shoes, sports equipment, etc.
Storage sheds
Tote bags
Towel rentals
Uniforms
Upholstery sales & repairs
Vending machine sales (if machine is owned by the school)
Yearbooks

PROVIDING TAXABLE SERVICES

Auto and truck repair
Car washes
Repair of tangible personal property
Vehicle body work

ADMISSIONS/TICKETS

Activity tickets
Admissions (tickets) to school events, including basketball games, carnivals, concerts, dances, football games, fun nights, movies, plays, special events, swim meets, track meets, wrestling meets and other sporting events, etc.
Admission to amusement parks or rides, museums and planetariums
Admission to fund-raising events including auctions, chili suppers, haunted houses, home tours, and golf or tennis tournaments ²
Lyceum tickets to lectures and other public programs
Teacher or student banquets (receipts are exempt if the banquet is held at an outside restaurant which charges the tax)

¹ Sales of items in this category are exempt when sold by a nonprofit youth development organization, by a PTA, a PTO, or by others on behalf of a PTA or PTO. However, these entities must still collect tax when providing taxable services or selling admissions.

² Schools and universities must charge sales tax on these admissions. Only political subdivisions (school districts and cities) are exempt from collecting sales tax on fees charged to participate in sports. See *Golf Courses*, herein.

REPORTING AND PAYING SALES TAX



HOW TO REGISTER

Kansas schools, groups and organizations must register with KDOR in order to collect sales tax from their retail customers. **There is no minimum amount of sales or sales tax due before you are required to register to collect the tax.** Depending on the activity, other tax registrations may also be required. See *Other Kansas Taxes* on page 25.

To apply for a tax number or to register for Kansas Retailers' Sales Tax, visit the *Business Tax* section of our web site (ksrevenue.org). You will be linked to the Kansas Business Center to complete the application, receive your account number and print your registration certificate. For complete instructions about the application process, obtain Pub. KS-1216, Kansas Business Tax Application Booklet, from our web site.

If you prefer, you may apply in person – it provides same-day registration service. An owner, partner, or a principal officer (president, vice-president, or secretary-treasurer) may bring the completed application to our assistance center. We will process your application, assign a registration number, and issue a Certificate of Registration if you have no outstanding tax liability.

Another option is to mail or fax your completed business tax application to our office 3 to 4 weeks prior to making retail sales. This will ensure that your tax account number and registration certificate are issued before your first tax payment is due.

When making retail sales you are required to display your registration certificate in a *conspicuous location* to let your customers know you are duly registered to collect and remit the taxes you are charging them. Have a copy of your registration certificate to present at each temporary sales location should a local or state official request proof of registration. If it is lost or destroyed, request a duplicate from KDOR. You may copy the certificate. Many suppliers will request a copy of your registration to verify your sales tax number on an exemption certificate.

SALES TAX ACCOUNT NUMBERS

Once your application is processed, your business is assigned a sales tax account number. Your sales tax account number has three distinct parts:

① ↓ ② ↓ ③ ↓
004-481880059F-01

① **Tax Type.** Each tax type administered by KDOR has been assigned a number. The "004" is the number assigned to Retailers' Sales Tax. The tax type number appears on your registration certificate and on the sales tax return.

② **Account Number = EIN (Employer Identification Number).** The account number is your federal EIN, followed by the letter "F." The nine-digit EIN is issued by the Internal Revenue Service to identify employers and businesses.

If you are not required to have an EIN, KDOR will create an account number for you. The number will begin with a "K" (or "A" if registering with the Kansas Business Center) followed by eight numbers and the "F."

③ **Numerical Suffix.** The two-digit code at the end of the number is for KDOR's use. For most taxpayers it is "01." This code could either denote the number of locations or the number of registrations under this EIN, "K", or "A" number.

RETAILER RESPONSIBILITIES

Kansas retailers are responsible for collecting the full amount of state and local sales tax due on each sale to the final user or consumer. It is illegal for a retailer to advertise to the public or any consumer, directly or indirectly, that:

- the sales/use tax or any part of the tax will be paid or absorbed by the retailer,
- sales/use tax is not a part of the price to the consumer, or
- when sales/use tax is added to the price all or part of it will be refunded.

You will avoid many sales tax problems if you follow these two rules when making retail sales:

- 1) All retail sales of goods and enumerated services are considered **taxable** unless specifically exempt.
- 2) For every sale of merchandise or taxable services in Kansas, the sales receipt, invoice, or bill must either show that the total amount of sales tax due was collected, or be accompanied by a completed exemption certificate.

Collecting Tax From Your Customers

There are two acceptable ways to collect sales tax on retail sales. The sales tax must either be **separately stated** as a line item on an invoice, or **included in the price** of the item.

The most common method is to **separately state** the tax due on the invoice, bill, receipt, or other evidence of the transaction. If the tax is a line item, it must be

clearly stated to the public as sales tax and there must be a separate line on the invoice, receipt, etc. for the sales tax.

If the tax is **included in the price**, it must be clearly stated to the public that the price includes *all applicable sales taxes*. This method is often used by contractors and when it is not practical or convenient to add the tax at the point of sale, such as vending machine sales and the sale of admission tickets and concessions.



CAUTION: When sales tax is included in the retail price of an item, service or admission, **you must factor out the tax** from the total proceeds before reporting *Gross Sales* on your sales tax return. Failure to do so will cause you to be paying tax on tax. To calculate the sales amount without the sales tax, divide the total by “1” plus the combined state and local sales tax rate due on that sale.

The Sales Tax Base

The sales amount to which sales (or compensating use) tax is added is called the sales tax base. The law uses the term *gross receipts*.

GROSS RECEIPTS—Total **selling price** or the amount received in money, credits, property or other consideration valued in money.

SELLING PRICE—Total cost to the consumer, excluding discounts allowed and credited, but including freight and transportation charges from retailer to consumer. Selling price includes the cost of the property, materials, labor, or service used or expended, losses, overhead, and profit.



IMPORTANT: If the price of the item is not established (i.e., donation of any kind accepted) sales tax is not due. But if the *suggested donation* amount is advertised and expected, the sales tax base for the taxable sale has been established at the *suggested donation* amount.



The cheerleaders are holding a car wash to raise money for uniforms. The car wash is free with a suggested donation of \$5 per car. Amounts collected at the car wash are taxable. The total collected would include the state and local sales tax where the car wash is provided and be *factored out* before reporting the sale in your sales tax filing.

A complete discussion of the application of sales tax to the various aspects of a sale is in our Pub. KS-1510, Kansas Sales and Compensating Use Tax. This publication is available on our web site.

Collecting Local Sales Tax

The rate of local sales tax that is added to the state tax on a retail sale of goods or taxable services is

generally determined or *sourced* according to where the buyer takes delivery of the goods or taxable service provided. This is known as *destination-based* sourcing. For Kansas retailers this means that while *over-the-counter* sales remain subject to the state and local sales tax in effect at the retailer’s location, shipped or delivered sales of goods or taxable services are now taxed at the state and local rate in effect at the customer’s Kansas delivery address.



IMPORTANT: Retailers who ship or deliver sold items to their customers’ locations are therefore required to collect the **state and local sales tax rate in effect at the customer’s Kansas location (destination)**. Retailers providing taxable services are required to collect the local tax in effect where the services are performed.



Your school is located in Dodge City and is selling commemorative T-Shirts. On sales made at your school and throughout Dodge City, you will collect the combined state and local rate in effect for Dodge City. You will collect the Ford County rate on shirts mailed or delivered to customers outside Dodge City but still in Ford County, and on T-shirts mailed to customers in other Kansas cities or counties, you will collect the combined state and local rate in effect for that customer’s address.

In order to accurately determine the correct local tax **jurisdiction** for a Kansas sale, retailers should consult Notice 2003-04, Destination-Based Sourcing Rules, then use the Jurisdiction Code Booklet, Pub. KS-1700, to determine the correct combined state and local tax **rate** for that customer’s tax jurisdiction. This notice and publication, along with an electronic sales tax look-up program are available on our web site.

Out-of-State Sales

Sales of property shipped or delivered to a customer in another state by are not subject to Kansas sales tax. Only Kansas customers must pay Kansas sales tax. However, customers in other states may owe a use tax to the state where the item is used or consumed. In the example above, T-shirts shipped or delivered to residents of other states would not be subject to Kansas sales tax.

RECORDKEEPING

It is most important to keep neat, thorough, and adequate records of the school’s sales and receipts. Keeping good records will enable you to:

- accurately complete your sales and use tax filings,
- determine the overall profitability of events and fund-raising activities, and

- spend more time on school business and less time on government reports and filings.

Retailers must “keep records and books of all such sales, together with invoices, bills of lading, sales records, copies of bills of sale and other pertinent papers and documents...” (K.S.A. 79-3609). The requirements for electronic and paper format and content are prescribed by K.A.R. 92-19-4b. Your sales tax records must contain the following documents and information:

- **Gross receipts** from the sale, rental, or lease of tangible personal property in the state of Kansas, including any services that are a part of the sale or lease, regardless of whether the receipts are considered to be taxable or non-taxable;
- all **deductions** allowed by law and claimed in your tax filings;
- the **purchase price of** all tangible personal **property** purchased for sale, consumption, or lease in the state of Kansas (the cost of your inventory, equipment, and fixtures);
- all **exemption certificates**; and
- a **true and complete inventory** taken at least once a year.

You must keep these records for the current year and at least three prior years. Your sales tax records must also be available for, and are subject to, inspection by the Director of Taxation or authorized representative (auditor) at all times during normal business hours.

EXEMPTION CERTIFICATES

The burden of proving that a sale is not subject to tax is on the seller, unless the seller takes an exemption certificate from the buyer that details why the sale is not subject to tax. An exemption certificate is an electronic or paper document that is furnished or completed by the buyer, and kept by the seller to show why sales tax was not charged on an otherwise taxable sale of goods or services. Do not send completed exemption certificates to KDOR - they must be kept as a part of the seller’s sales tax records.

An accurately completed exemption certificate relieves the seller from collecting sales tax when the seller has obtained the certificate and kept a copy on file. Any person selling tangible personal property or furnishing taxable services cannot assert that a sale is exempt from taxation unless a properly executed exemption certificate provided by the consumer claiming the exemption is a part of the seller’s sales or use tax records. A retailer is responsible for obtaining a completed exemption certificate even though the purchaser may strike the tax from the bill or claim to be

exempt only after receiving the merchandise. As a buyer who is exempt on most of its purchases, schools should be proactive in furnishing a completed exemption certificate to its vendors and service providers.

All retailers should obtain a copy of Pub. KS-1520, Kansas Exemption Certificates, from our web site. This publication provides detailed information about how to properly use exemption certificates as a buyer and as a seller, and contains all the exemption certificates currently in use.



CAUTION: Do not accept a copy of a customer’s sales tax registration certificate instead of an exemption certificate. The registration certificate shows the buyer is a retailer—it does not certify the purchase is exempt from tax.

Completing an Exemption Certificate

Follow these three rules when completing any exemption certificate.

1) PRINT OR TYPE ALL INFORMATION, EXCEPT FOR THE SIGNATURE.

The information on the certificate must be legible both to you and to our auditors. Do not print a signature on paper forms, although it is recommended that the name be printed or typed below the signature. (A signature is not required on an electronic exemption certificate.)

2) FILL IN ALL THE BLANKS.

A certificate is complete only when all the information is provided, including any tax account numbers required by that certificate. If there is a blank on the form, it must be completed. Addresses must include the street or PO Box, city, state, and zip code.

3) GIVE SPECIFIC DESCRIPTIONS.

Be precise when describing the property or services purchased. You may use an itemized list, refer to an itemized invoice, or at the very least provide a general description of the items.

Penalties for Misuse

A buyer who issues an exemption certificate in order to unlawfully avoid payment of the sales tax for business or personal gain is guilty of a misdemeanor, and upon conviction may be fined up to \$1,000 or imprisoned for up to a year, or both. When a buyer is found to have used a **resale** exemption certificate to avoid payment of the tax, the director may also increase any penalty due on the tax by \$250 or 10 times the tax due, whichever is greater, for each transaction where the misuse of a resale exemption certificate occurred.

OTHER KANSAS TAXES

COMPENSATING USE TAXES

When an item is taxable or exempt, it applies to both the application of sales and compensating use tax. Kansas state and local **sales** tax is due if the buyer and seller are both in Kansas; if the seller is in another state, Kansas state and local **compensating use** tax is due. The tax base for computing use tax is the same as for sales tax. See *The Sales Tax Base*.

Compensating use tax *compensates* for the lack of sales tax on a taxable transaction. A compensating use tax is due when a Kansas resident buys goods or merchandise for use, storage or consumption in Kansas from vendors in other states on which a state and local sales tax rate equal to that of the Kansas buyer has not been paid. It applies to any kind of tangible personal property purchased outside Kansas that would be subject to sales tax if purchased in Kansas. If the state and local sales tax paid in another state is less than the combined Kansas state and local sales rate in effect at the customer's Kansas location, only the difference is due to Kansas.

Local (city, county and/or special taxing district) use taxes now apply to any type of tangible personal property shipped from a retailer outside of Kansas to a Kansas resident for use, storage or consumption. Like in-state sales tax transactions, the local use tax rate is imposed according to the same *destination-based* sourcing rules discussed in the section *Collecting Local Sales Tax*.

Kansas has imposed a use tax on goods purchased by Kansans (individuals and businesses) from outside Kansas since 1937. The purpose of this tax is to protect Kansas businesses from unfair competition with retailers in other states by equalizing the rate of tax due on a taxable sale of tangible personal property purchased by a Kansas resident. Although established in 1937, compensating use tax is probably the tax most often unpaid by Kansas individuals and businesses.

There are two types of state and local use tax:

Consumers' Compensating Use Tax: paid by Kansas individuals and businesses on imported goods direct to KDOR; and

Retailers' Compensating Use Tax: collected by businesses outside Kansas on goods delivered or shipped to Kansas residents.

Consumers' Compensating Use Tax

The Consumers' Compensating Use Tax is due when Kansas residents buy goods or merchandise for their use or consumption in Kansas from vendors in other states on which a state and local sales tax rate equal to that of the Kansas buyer has not been paid.

A school's exemption from sales tax also applies to the compensating use tax. Therefore, only the items that are taxable when purchased in Kansas by a school would be subject to use tax when purchased in another state by a Kansas school. The most common example would be equipment and furniture for dormitories or residence halls. If purchased from a Kansas vendor, you must pay state and local Kansas sales tax on them; if purchased from a vendor in another state, you will owe state and local Kansas compensating use tax on them. The state and local sales or use tax **rate** is determined by where you take delivery (the *destination*) of the items.



The Kansas state and local sales tax rate at your college's location is 7.8%. The desk/chair sets you need for your dorm rooms are available from a retailer in your city for \$85 each - delivery and set-up is free. They are available from a retailer in another Kansas city for \$82.50 plus \$5 shipping, and you find the same set on-line from an Oklahoma vendor for \$70 plus \$10 shipping.

If you buy the desk/chair set locally, each will cost you \$85 plus 7.8% sales tax of \$6.63, for a total of \$91.63. If purchased from the other Kansas retailer, each will cost you \$87.50 plus 7.8% sales tax of \$6.83, for a total of \$94.33. If you buy them from the Oklahoma retailer, each will cost you \$80 plus 7.8% use tax of \$6.24 for a total cost of \$86.24. In each transaction, the tax rate (sales or use) remains the same - the rate in effect where the delivery is taken.

Retailers' Compensating Use Tax

This use tax is collected by retailers in other states who are registered with KDOR to collect this tax from their Kansas customers.

Retailers based in other states that also have a physical presence in Kansas (retail store, warehouse, delivery into Kansas, etc.) are required to register to collect Kansas Retailers' Compensating Use Tax. Out-of-state retailers that do not have a physical presence in Kansas are not required to register and collect Kansas use tax, but many do so voluntarily as a convenience for their Kansas customers.



Your technical college is ordering building materials from Nebraska. The state and local sales and use tax rate in your city is 6.3%. These supplies will be used in a new home being built by your carpentry and mechanical

contractor classes that will be sold as real property. The following situations show various tax treatments for this type of sale.

SITUATION 1: You pick up the items in Nebraska. Since the sale was transacted in Nebraska, you will pay Nebraska sales tax if Nebraska imposes tax on these items. The Nebraska state and local sales tax rate is 6%. As a Kansas consumer, you will owe the difference between the combined rates (6.3% - 6% = .3%) to Kansas as consumers' compensating use tax.

SITUATION 2: The Nebraska retailer delivers the items to your Kansas school. As a retailer delivering into Kansas, the retailer *should be* registered to collect Kansas Retailers' Compensating Use Tax of 6.3% on this sale, and will add this tax to the total invoice amount (cost of items plus any delivery charge).

SITUATION 3: The Nebraska retailer ships the items to your Kansas college by common carrier (UPS, freight company, etc.). Retailers shipping into Kansas do not have to register to collect the **Retailers'** Compensating Use Tax. Therefore, as a Kansas consumer you will owe **Consumers'** Compensating Use Tax of 6.3% on the total cost, including delivery charge.

For more information about compensating use taxes, obtain a copy of our Pub. KS-1510, Kansas Sales and Compensating Use Tax. The rules that govern which local tax to apply to a sale are in our Notice 2003-04, Sales and Use Tax Sourcing Rules. The publication and notice can be found on our web site. To obtain a use tax reporting number, complete a Kansas Business Tax Application (CR-16). See *How to Register* on page 22.

WITHHOLDING TAX

This tax is deducted by employers and payors from the wages and other taxable payments made to employees and payees. Its purpose is to help pre-pay the income tax liability of that individual. As a general rule, if you are required to withhold federal income tax from the payment, Kansas withholding tax is also required. Although nonprofit schools and educational institutions are exempt from paying income tax, they are employers and payors, and must withhold Kansas income tax from the wages and other taxable payments made to teachers, staff and students, including many foreign students.

Additional information and the tables to compute withholding tax are in our Pub. KW-100, A Guide to Kansas Withholding Tax, available on our web site. To register to withhold Kansas tax complete a Kansas Business Tax Application (CR-16). See *How to Register* on page 22. Employers must also register with the Kansas Department of Labor and the IRS (Internal Revenue Service).

YOUR FILE AND PAY OPTIONS



Since July 1, 2010, it has been a requirement that businesses submit their Retailers' Sales, Compensating Use taxes, and Withholding Tax returns electronically.

Kansas offers several electronic filing solutions (see chart on next page). You can use **WebTax for on-line filing and payment** for most business tax accounts. First, create a user login ID and select a password then attach your business tax accounts. **Each tax account has a unique access code** that only needs to be entered once. This access code binds your account to your login ID. For future filings, you simply log into your account using your self-selected user login and password. A history of all returns filed or payments made is retained in WebTax.

You can also use **TeleFile**, the telephone option, to file returns and make payments for several tax accounts. Like WebTax, you will need your access code to begin. TeleFile requires that you use this access code each time you file or make payment.

Annual Sales and Use Tax zero filers: You may use your touch-tone telephone to file your annual multi-jurisdiction tax returns if you are reporting zero sales. Like the other telephone application, you will need your access code to complete your filing.

Your **access code** for our electronic filing systems is printed on the Sales Tax Rate Change postcard that annual filers receive each quarter. If you cannot locate your access code, call our Taxpayer Assistance line at 785-368-8222 and press 5. If you prefer you may email your request to: eservices@kdor.ks.gov

Electronic tax payments must be made on or before the due date. Using the WebTax system, you can have your tax payment electronically debited from your bank account (ACH Debit). You may choose to initiate your tax payment through your bank (ACH Credit*). Credit card payments are also accepted through third-party vendors. Visit our web site at **webtax.org** for a current list of vendors and their services.

* A Form EF-101, Authorization for Electronic Funds Transfer, must be completed for ACH Credit before using the EFT payment method. This form is available on our web site at: ksrevenue.org

WebTax and **TeleFile** are simple, safe, and FREE and conveniently **available 24 hours a day, 7 days a week**. You also receive immediate confirmation that your return is filed. Refer to your tax type in the table on the following page to find the electronic filing and payment options available to you.

ELECTRONIC FILE and PAY OPTIONS

For assistance with filing your return or making your payment electronically, contact our **Electronic Services** staff at **1-800-525-3901**. If in Topeka, call 296-6993. You may also e-mail Electronic Services at: eservices@kdor.ks.gov

Retailers' Sales and Compensating Use Tax

ELECTRONIC OPTIONS	PROGRAM DESCRIPTION	FORMS ACCEPTED	REQUIREMENTS	GETTING STARTED
ONLINE webtax.org	Use WebTax to file <u>single</u> and <u>multiple jurisdiction</u> sales and use tax returns. WebTax allows filers to upload jurisdictions and tax payments directly into returns. Users can also copy jurisdiction information from previous returns into their current return; saving time and improving accuracy.	<ul style="list-style-type: none"> • ST-16 • ST-36 • CT-9U • CT-10U 	<ul style="list-style-type: none"> • Internet access • Access Code(s) • EIN • EF-101 form (ACH Credit Payments) 	<ul style="list-style-type: none"> ➤ Go to webtax.org and click the "Use WebTax Now" button. ➤ Create a user login and a password. ➤ Contact KDOR for your access code. ➤ Connect your tax account to your login and begin filing.
BYPHONE 877-317-5639	This TeleFile system can be used to file <u>single jurisdiction</u> returns. It may also be used for <u>annual</u> filers with <u>multi-jurisdictions</u> and zero tax to report. Using a touch-tone phone, tax information is entered from a completed worksheet into the TeleFile system. Your assigned access code and federal Employer Identification Number (EIN) remains the same for each filing period.	<ul style="list-style-type: none"> • ST-16 <p>With zero sales:</p> <ul style="list-style-type: none"> • ST-36 • CT-9U • CT-10U 	<ul style="list-style-type: none"> • Touch-tone telephone • TeleFile worksheet • Access Code(s) • EIN 	<ul style="list-style-type: none"> ➤ Complete a TeleFile worksheet. You may download it from our web site at: http://ksrevenue.org/forms-btsales.html or you may make copies of your current worksheet to use for filing future periods. ➤ Contact KDOR for your access code. ➤ Call 1-877-317-5639 and use your access code and your federal EIN to access the TeleFile system. Using the keypads on a touch-tone phone, enter the information from your worksheet.

Withholding Tax

ELECTRONIC OPTIONS	PROGRAM DESCRIPTION	FORMS ACCEPTED	REQUIREMENTS	GETTING STARTED
ONLINE webtax.org	KW-5 Deposit Reports can be made using the WebTax application. After connecting to your withholding account, simply click the "Make an EFT Payment" link to complete your filing and make payment. WebTax also allows you to file your KW-3 Annual Withholding Tax return and W-2/1099 Withholding Reports electronically. A Form EF-101 , Authorization for Electronic Funds Transfer, must be completed for ACH Credit* before using the EFT payment method. This form is available on our web site at: ksrevenue.org	<ul style="list-style-type: none"> • KW-3 • KW-5 • W-2 • 1099 	<ul style="list-style-type: none"> • Internet access • Access Code(s) • EIN • EF-101 form (ACH Credit Payments) 	<ul style="list-style-type: none"> ➤ Go to webtax.org and click the "Use WebTax Now" button. ➤ Create a user login and a password. ➤ Contact KDOR for your access code. ➤ Connect your tax account to your login and begin filing. ➤ Go online and complete a form EF-101 (ACH Credit* payers only).
BYPHONE 877-600-5640	A KW-5 return with payment can be made through the EFT payments telephone system. A Form EF-101, Authorization for Electronic Funds Transfer, must be submitted for ACH Debit* before using the EFT payment method. This form is available on our web site at: ksrevenue.org	<ul style="list-style-type: none"> • KW-5 	<ul style="list-style-type: none"> • Touch-tone telephone • Access Code(s) • EIN • EF-101 form (ACH Credit Payments) 	<ul style="list-style-type: none"> ➤ Go online and complete a Form EF-101. ➤ Contact KDOR for your access code. ➤ Call 1-877-600-5640 and use your access code and your federal EIN to access the EFT Payment system. Using the keypads of your touch-tone phone, follow the phone prompts to complete your payment and submit your return.

* **ACH Debit:** Kansas Department of Revenue debits the tax payment from your bank account. **ACH Credit:** You initiate a tax payment through your bank.

TAXATION RESOURCES

When there is a question that is not answered in this booklet, contact KDOR. DO NOT GUESS. Clarification of whether a purchase or sale is taxable or exempt will save you time in dealing with the issue in the future. Resolving issues of taxability could also save you money; you will be taking full advantage of the exemptions available and avoiding costly sales or use tax deficiencies on taxable purchases. Use the following KDOR resources to obtain information on Kansas tax matters and to resolve questions of taxability.

TAXPAYER ASSISTANCE CENTER – (785) 368-8222

Many questions can be answered by the customer representatives in Topeka. However, like many businesses, KDOR uses an automated answering system to direct incoming calls to the appropriate area. See the back cover of this publication for our taxpayer assistance center address and phone numbers.

WEB SITE - ksrevenue.org

Our web site contains information about all aspects of KDOR. Forms, informational publications, exemption certificates and information about all the taxes administered by KDOR are published on our web site. Each division of KDOR is represented, including the Division of Vehicles, responsible for vehicle registrations and driver's licenses and the Division of Alcoholic Beverage Control (ABC).

POLICY INFORMATION LIBRARY

Another service available to taxpayers on our web site is a library of policy information for all taxes administered by KDOR. This library contains the Kansas Statutes and Regulations, Revenue Notices, Revenue Rulings and other written advice issued by KDOR. It also includes Opinion Letters and Private Letter Rulings (see *Written Rulings*). For ease in locating information, the library may be searched by tax type and topic.

WRITTEN RULINGS

Despite the amount of written information available in our policy library, there are unique situations that may require an interpretation or clarification based upon the law, regulations, and specific facts of the case. DO NOT rely on a verbal opinion from KDOR on issues of taxability not specifically addressed in the law.

To assist you in understanding how the law applies to your business, KDOR issues three types of written advice: revenue notices, revenue rulings, and private letter rulings. This written advice is binding on KDOR and may be relied upon as long as the statute or regulation on which they are based is not altered by the Legislature, changed by a court decision, or the ruling itself modified or rescinded by KDOR. When an issue arises in your business that is not addressed in the law, document the problem or question in writing and request a Private Letter Ruling or an Opinion Letter from KDOR. Mail or fax your request to:

Office of Policy and Research
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66625-0001
Fax: (785) 296-7928

You will receive a written ruling within 30 days after your request (and any additional information necessary for the ruling) is received. Private letter rulings are published in our Policy Information Library. However, these letters have been "scrubbed" to protect the privacy of the taxpayer—any information that would identify the taxpayer, such as name, address, product, etc., is blanked out.



CAUTION: Although published as part of our policy library, a private letter ruling is *limited to* the requesting taxpayer and that taxpayer's specific factual situation. It cannot be relied upon or cited by any other person.

KEY STATUTES AND REGULATIONS

To prepare this guide we have used or cited the following laws and regulations. The full text of these are a part of the Policy Library on our web site.

Laws	K.S.A. 8-126 - Vehicle definitions K.S.A. 72-1111 - School defined K.S.A. 79-3401 - Motor Fuel Tax K.S.A. 79-3602(r) - Educational Institution defined K.S.A. 79-3606(c) - Sales tax exemption K.S.A. 79-3606(d) - Construction projects K.S.A. 79-3606(h) - Nonsectarian textbooks K.S.A. 79-3606(ii) - Nonprofit nonsectarian multidiscipline youth development organizations K.S.A. 79-3606(yy) - PTA/PTO exemption K.S.A. 79-5117 - Vehicle Rental Excise Tax
Regulations	K.A.R. 92-19-21 - Meals & Drinks K.A.R. 92-19-22 - Admissions K.A.R. 92-19-66e - Project Exemptions K.A.R. 92-19-67 - Sales by not-for-profit entities K.A.R. 92-19-75 - Educational institutions

Kansas Department of Revenue

Sales and Use Tax Entity Exemption Certificate

The Kansas Department of Revenue certifies this entity is exempt from paying Kansas sales and/or compensating use tax as stated below.

Kansas Exemption Number: <KS12345678>

Expiration Date: <MM/DD/YYYY>

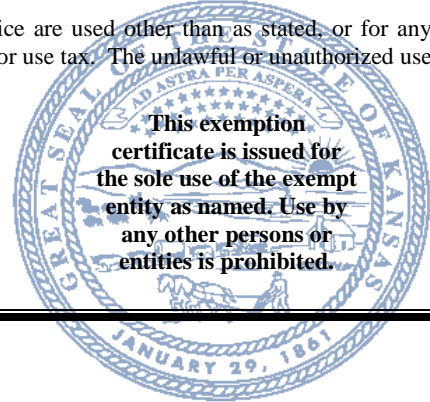
The tax-exempt entity understands and agrees that if the tangible personal property and/or service are used other than as stated, or for any purpose that is not exempt from the tax, the tax exempt entity is liable for the state and local sales or use tax. The unlawful or unauthorized use of this certificate is expressly prohibited, punishable by fine and/or imprisonment.

<Petitioning Authority>

<Address Line 1>

<Address Line 2>

<City State Zip>



EXEMPT ENTITY INFORMATION:

Authorization and scope:

- K.S.A 79-3606(yy) - Parent Teacher Associations or Organizations.
- Exemption applies to all direct purchase, rental and lease of tangible personal property and services.

Limitations:

- Only direct purchases are exempt through the use of this certificate
- This entity is **NOT** authorized to obtain a Project Exemption Certificate (PEC). Therefore, contractors and subcontractors must pay Kansas sales or compensating use tax on materials purchased when contracting with the above identified entity. Furthermore, all taxable labor services performed for the above identified entity by contractors and subcontractors are subject to Kansas sales tax.

SAMPLE

Exempt Entity Authorized Signature (Officer, Office Manager or Administrator)

Federal ID Number

Printed Name

Date

RETAILER INFORMATION:

- To qualify for exemption, the certificate must have an expiration date in the future and be signed by an authorized individual.
- Payment must be made by the entity on their checking account or on a credit/debit card issued to the entity. Acceptance of cash, personal checks, or personal credit/debit cards is not allowed for a tax exempt purchase.
- This entity is **NOT** authorized to obtain a Project Exemption Certificate (PEC).
- The entity must have a Kansas exemption certificate. Exemption certificates issued by other states are not valid in Kansas.
- Retailers are required to maintain a copy of the purchaser's certificate in their records for at least 3 years from the date of purchase. Retailers must maintain a current certificate on file.
- Selling tax exempt goods or services that are not exempt by statute may result in the assessment of tax.
- A completed certificate may be used as a blanket exemption for future purchases when of the same type and for the same exempt purpose.

Seller's name and address

Description of goods and/or services purchased

For additional information on Kansas sales and use taxes see Publication KS-1510, *Kansas Sales Tax and Compensating Use Tax* and Publication KS-1520, *Kansas Exemption Certificates*, located at: www.ksrevenue.org Questions would be directed to Taxpayer Assistance at 785-368-8222.

REQUEST FOR PROJECT EXEMPTION CERTIFICATE

Kansas Department of Revenue
Office of Policy and Research
915 SW Harrison St., Room 230
Topeka, KS 66612-1588

Date _____

Telephone: (785) 296-3081
Fax: (785) 296-7928

It is requested that a Certificate of Exemption be issued to the Petitioning Authority for the following described project if it is determined by the Department of Revenue that the proposed project qualifies for exemption from sales tax under the provisions of K.S.A. 79-3606(d) – public or private nonprofit hospital, elementary or secondary school, educational institution & political subdivisions of the state of Kansas; K.S.A. 79-3606(e) – United States Government, its agencies or instrumentalities; K.S.A. 79-3606(xx) – 501(c)(3) nonprofit zoo; K.S.A. 79-3606(aaa) – 501(c)(3) religious organization; K.S.A. 79-3606(ccc) – 501(c)(3) primary care clinic; K.S.A. 79-3606 (iii) non-profit food distribution center; K.S.A. 79-3606 (qqq) TLC for Children and Families, Inc.; K.S.A. 79-3606 (sss) non-profit charitable family providers; K.S.A. 79-3606 (ttt) museum within a designated qualified hometown or K.S.A.(uuu) Kansas Children’s Service League.

(A) Type of project: _____
Describe work to be done

A. Present use of facility: _____

B. Proposed use of facility after project: _____

(B) Project location: _____
Building Number, Street Address, City, State, and Zip Code

(C) Is this project being constructed as part of a business enterprise whose sales are subject to sales tax (e.g., municipal water, electric or gas companies)? Yes No

(D) Is the Petitioning Authority authorized to levy ad valorem taxes on tangible property? Yes No

(E) A. Is this project being totally financed by industrial revenue bonds? Yes No

B. Is this project being partially financed by industrial revenue bonds? Yes No

Amount of bonds being issued for project: _____

If you answered “Yes” to A or B, you must complete the agreement on the back of this form and attach a copy of the letter of intent or resolution of intent to issue bonds.

If you answered “No” to A or B, how is the project being financed (explain type of tax, bonds, etc.)?

(F) Name of claimant owner of project: _____

(G) Starting date: _____

(H) Estimated completion date: _____

(I) Estimated project cost: _____

(J) List names and addresses of prime contractors:

(K) Contract date: _____

(L) Contract number: _____

(M) Project number: _____

Petitioning Authority

Mailing Address

Signature of Authorized Representative

City, State & Zip Code

Type or Print Name

Tax Exempt Entity No.

Title

Phone Number

ONLY COMPLETE THIS PAGE IF YOU ANSWERED YES TO LINE (E) ON PAGE 1.

This agreement is made and entered into between and by the _____
_____ (name of political subdivision), hereinafter referred to as
Exempt Entity; and _____ (name of beneficiary of industrial revenue bond proceeds),
hereinafter referred to as Beneficiary.

It is hereby agreed by all parties to this agreement that the construction project for which the request for an exemption certificate is being made would be exempt from sales tax solely due to the fact that it is being financed by industrial revenue bonds. It shall be the duty of the Exempt Entity to notify the Kansas Department of Revenue when the industrial revenue bonds have actually been issued.

Whereas, the Kansas Department of Revenue deems it necessary to ensure that sales or compensating tax is paid should the project not be financed by industrial revenue bonds, it is hereby further agreed by the Beneficiary that if the industrial revenue bonds have not been issued by the time the project is completed then the Beneficiary will remit to the Kansas Department of Revenue the sales or compensating tax and applicable interest on tax which is due based upon the cost of tangible personal property or services used or consumed in the construction of the project. It is agreed that the Secretary of Revenue shall determine when the project has been completed.

The Director of Policy and Research shall have the right to demand from the Beneficiary payment of the sales and compensating tax and applicable interest due the state should the Kansas Department of Revenue not receive such payment within thirty (30) days after the project has been completed.

Any and all notices required herein shall be mailed and addressed as follows:

A. Notices to the Department of Revenue shall be addressed to: Director of Policy and Research, Kansas Department of Revenue, 915 SW Harrison St., Room 230, Topeka, Kansas 66612-1588;

B. Notices to the Exempt Entity shall be addressed to: _____

C. Notices to the Beneficiary shall be addressed to: _____

This agreement shall be binding upon all parties hereto and any and all their successors.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by persons authorized to do so lawfully and with full corporate authority.

POLITICAL SUBDIVISION	BENEFICIARY OF INDUSTRIAL REVENUE BOND PROCEEDS
_____ Authorized Signature	_____ Authorized Signature
_____ Type or Print Name and Title	_____ Type or Print Name and Title
DATED: _____	DATED: _____

STATE OF KANSAS PROJECT COMPLETION CERTIFICATION

TO: _____
Name of Entity to whom Project Exemption Certificate was Issued

Street Address City State Zip Code

This is to certify, to the best of my knowledge and belief, that all materials purchased under Exemption Certificate Number _____, issued by the Kansas Department of Revenue, were incorporated into the building or project for which the exemption was issued and were entitled to an exemption pursuant to K.S.A. 79-3606(d), (e) or (cc), as amended.

Contractor / Subcontractor

P.O. Box and/or Street Number and Name

Street Address City State Zip Code

Signature and Title of Authorized Representative Date

INSTRUCTIONS

Upon completion of a tax exempt project, the contractor must furnish this certification to the taxpayer for which the work was performed. A copy of this certification must also be forwarded to the Kansas Department of Revenue, Office of Policy and Research, 915 SW Harrison Street, Room 230, Topeka, Kansas 66612-1588. All invoices must be retained by the contractor for a period of five (5) years and are subject to audit by the Kansas Department of Revenue.

KANSAS DEPARTMENT OF REVENUE

**AGENT ISSUED
PROJECT EXEMPTION CERTIFICATE**

PERMIT TO PURCHASE TANGIBLE PERSONAL PROPERTY OR SERVICES WITHOUT PAYMENT OF SALES TAX, LOCAL SALES TAX, OR COMPENSATING TAX

The undersigned purchaser certifies that the sale of tangible personal property by

_____ of _____,
(Vendor Name) (City, State)

is exempt from the Kansas Sales and Compensating (Use) Tax pursuant to K.S.A. 79-3606(d) or (e) of the Retailers' Sales Tax Act.

Pursuant to the above section, the exemption certificate number below must appear on the invoice covering such sale.

Date _____ Purchaser _____
(Contractor/Subcontractor)

Address _____

City, State _____

SAMPLE
Authorized Signature

NOT VALID ON PURCHASES MADE PRIOR TO: April 1, 2006

NOT VALID ON PURCHASES MADE AFTER: July 31, 2006

Agent Status Number: **123-01**

This entity has been granted agent status pursuant to K.S.A. 79-3606(d) or (e): **ABC Elementary**

Project number (if used): 1234567

Location of project (city or county): **120 S. Main, Anytown, KS**

Description of project: **Construction of a utility building**

INSTRUCTIONS

EXEMPT ORGANIZATION-A copy of this certificate should be furnished to each contractor or subcontractor who will be purchasing tangible personal property for use on the project.

CONTRACTOR/SUBCONTRACTOR-Contractors and subcontractors working on the exempt project must furnish a completed copy of this exemption certificate to each retailer from whom you are buying tangible personal property or services for this project, or from whom you are renting or leasing construction machinery for use on the project.

RETAILER-Retailers must obtain a completed copy of this exemption certificate from each contractor or subcontractor making purchases of tangible personal property or services for the project, or renting or leasing construction machinery for use on the project.

Important Note: All invoices and exemption certificates for this project must be maintained by all parties for a period of five years and are subject to audit by the Kansas Department of Revenue.

**KANSAS DEPARTMENT OF REVENUE
RESALE EXEMPTION CERTIFICATE**

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

will be **resold** by me in the form of tangible personal property or repair service. I hereby certify that I hold valid Kansas sales tax registration number _____, and I am in the business of selling _____
(May attach a copy of registration certificate)

(Description of product(s) sold; food clothing, furniture, etc.)

Description of tangible personal property or services purchased: _____

I understand and agree that if the items purchased with this certificate are used for any purpose other than retention, demonstration, or display while being held for sale in the regular course of business, I am required to report and pay the sales tax, based upon the purchase price of the items.

Purchaser: _____
Name of Kansas Retailer

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Only those businesses and organizations that are registered to collect Kansas sales tax and provide their Kansas sales tax registration number on this form may use it to purchase inventory without tax. For additional information see Publication KS-1520, *Kansas Exemption Certificates*.

Nonprofit groups or organizations exempt by law from collecting tax on their retail sales of tangible personal property (such as a PTA or a nonprofit youth development organization) should use the exemption certificate issued to it by the Department of Revenue when buying items for resale.

Wholesalers and buyers from other states not registered in Kansas should use the Multi-Jurisdiction Exemption Certificate, Form ST-28M, to purchase their inventory. **HOWEVER**, if the inventory item purchased by an out-of-state retailer who has sales tax nexus with Kansas is drop shipped to a Kansas location, the out-of-state retailer must provide to the third party vendor a Kansas sales tax registration number, either on this certificate or the Multi-Jurisdiction Exemption Certificate, for the sale to be exempt. If the out-of-state retailer **DOES NOT** have sales tax nexus with Kansas, it may provide the third party vendor a resale exemption certificate evidencing qualification for a resale exemption, **regardless** of the state in which the retailer is registered for sales tax.

Contractors, subcontractors, or repairmen may not use this certificate to purchase their materials, parts, or tools. Retailer/Contractors should use a Retailer/Contractor Exemption Certificate, Form ST-28W, to purchase their resale inventory.

WHAT PURCHASES ARE EXEMPT? Only goods or merchandise intended for resale (inventory) are exempt. Tools, equipment, fixtures, supplies, and other items purchased for business or personal use are **TAXABLE** since the buyer is the final consumer of the property.

The items purchased with this certificate must correspond to the type of business buying them. For example, a retail clothing store may only reasonably purchase items of wearing apparel and accessories with this certificate. All other kinds of items are not usually sold by a clothing store to their customers and, therefore, cannot be purchased with this certificate.

LABOR SERVICES. This certificate applies **ONLY** to items of tangible personal property. A contractor may not use an exemption certificate to purchase the labor services of another contractor or subcontractor. Taxable labor services performed by a contractor can **ONLY** be purchased without tax with a Project Exemption Certificate issued by the department or its authorized agent.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

Kansas Department of Revenue

Sales and Use Tax Entity Exemption Certificate

The Kansas Department of Revenue certifies this entity is exempt from paying Kansas sales and/or compensating use tax as stated below.

Kansas Exemption Number: <KS12345678>

Expiration Date: <MM/DD/YYYY>

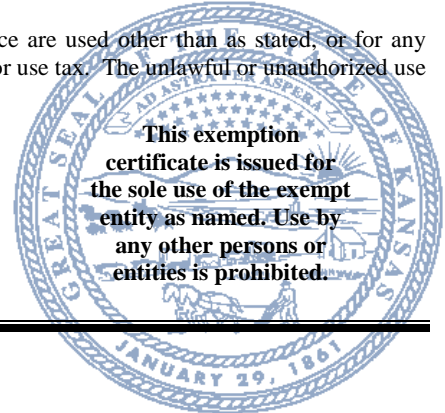
The tax-exempt entity understands and agrees that if the tangible personal property and/or service are used other than as stated, or for any purpose that is not exempt from the tax, the tax exempt entity is liable for the state and local sales or use tax. The unlawful or unauthorized use of this certificate is expressly prohibited, punishable by fine and/or imprisonment.

<Petitioning Authority>

<Address Line 1>

<Address Line 2>

<City State Zip>



EXEMPT ENTITY INFORMATION:

Authorization and scope:

- K.S.A 79-3606(c) & (d) - Public or Private Elementary or Secondary Schools or Nonprofit Educational Institutions.
- Exemption applies to all direct purchase, rental or lease of tangible personal property and services, except purchases of goods for human habitation and indirect purchases by a contractor for a real property project.

Limitations:

- Only direct purchases are exempt through the use of this certificate.
- This entity qualifies for exemption on indirect purchases by a contractor through the issuance of a Project Exemption Certificate (PEC). PECs should be obtained from the department prior to the start of the project. Apply on-line at KDOR's web site: www.ksrevenue.org
- This exemption does not apply to the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the exempt entity.
- Subject to sales tax are purchases of capital goods used for human habitation (i.e. residential housing and dormitories) to include materials for construction, remodeling or repair and furnishings such as beds, curtains, desks and furniture. Labor services on dormitories are exempt as residential construction.

Exempt Entity Authorized Signature (Officer, Office Manager or Administrator)

Federal ID Number

Printed Name

Date

RETAILER INFORMATION:

- To qualify for exemption, the certificate must have an expiration date in the future and be signed by an authorized individual.
- Payment must be made by the entity on their checking account or on a credit/debit card issued to the entity. Acceptance of cash, personal checks, or personal credit/debit cards is not allowed for a tax exempt purchase.
- The entity must have a Kansas exemption certificate. Exemption certificates issued by other states are not valid in Kansas.
- Retailers are required to maintain a copy of the purchaser's certificate in their records for at least 3 years from the date of purchase. Retailers must maintain a current certificate on file.
- Selling tax exempt goods or services that are not exempt by statute may result in the assessment of tax.
- A completed certificate may be used as a blanket exemption for future purchases when of the same type and for the same exempt purpose.

Seller's name and address

Description of goods and/or services purchased

For additional information on Kansas sales and use taxes see Publication KS-1510, *Kansas Sales Tax and Compensating Use Tax* and Publication KS-1520, *Kansas Exemption Certificates*, located at: www.ksrevenue.org Questions would be directed to Taxpayer Assistance at 785-368-8222.

Kansas Department of Revenue

Sales and Use Tax Entity Exemption Certificate

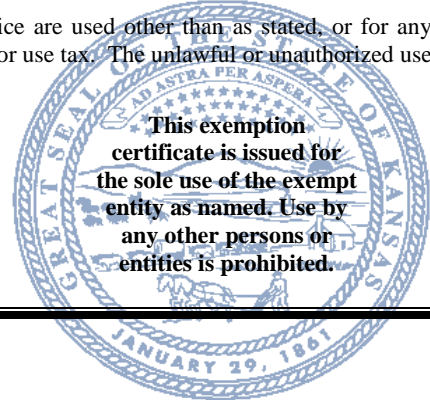
The Kansas Department of Revenue certifies this entity is exempt from paying Kansas sales and/or compensating use tax as stated below.

Kansas Exemption Number: *KS8151VFF8*

Expiration Date: *11/01/2014*

The tax-exempt entity understands and agrees that if the tangible personal property and/or service are used other than as stated, or for any purpose that is not exempt from the tax, the tax exempt entity is liable for the state and local sales or use tax. The unlawful or unauthorized use of this certificate is expressly prohibited, punishable by fine and/or imprisonment.

State of Kansas
Landon State Office Building Rm 351
900 SW Jackson Street
Topeka KS 66612



EXEMPT ENTITY INFORMATION:

Authorization and scope:

- K.S.A 79-3606(b) & (d) - State of Kansas, political subdivisions of the state of Kansas (Kansas cities, counties, townships, special districts), nonprofit hospitals, and blood, tissue, or organ banks.
- Exemption applies to all direct purchase, rental or lease of tangible personal property and services, except purchases of goods for human habitation or purchases made for any business activity specifically taxable, and indirect purchases by a contractor for a real property project except as noted below.

Limitations:

- Only direct purchases are exempt through the use of this certificate.
- Except for state government, this entity qualifies for exemption on indirect purchases by a contractor through the issuance of a Project Exemption Certificate (PEC). Apply on-line at KDOR's web site: www.ksrevenue.org. The only State of Kansas agency allowed a PEC is a Kansas correctional institution. Indirect purchases by all other state agencies are subject to sales tax.
- This exemption does not apply to the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the exempt entity.
- Subject to sales tax are purchases of capital goods used for human habitation (i.e. residential housing and dormitories) to include materials for construction, remodeling or repair and furnishings such as beds, curtains, desks and furniture. Labor services on residential housing and dormitories are exempt as residential construction.
- All purchases of goods and services used in a business that is specifically taxable by the Sales Tax Act are subject to tax. This includes operation of a utility, restaurant, and selling of goods or services at retail.

Exempt Entity Authorized Signature (Officer, Office Manager or Administrator)

48-6029925

Federal ID Number

Printed Name

Date

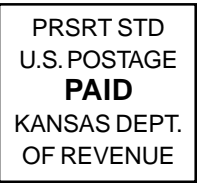
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TAXPAYER ASSISTANCE

This publication is a general guide and will not address every situation. If you have questions or need additional information, please contact taxpayer assistance at the Kansas Department of Revenue (KDOR).

TAXPAYER ASSISTANCE CENTER
Docking State Office Building - 1st floor
915 SW Harrison St.
Topeka, KS 66625-2007

PHONE: (785) 368-8222
Fax: (785) 291-3614
Web site: ksrevenue.org

Office hours are 8:00 a.m. to 4:45 p.m., Monday through Friday.

TAX FORMS

In addition to the publications listed below, KDOR's web site contains a library of policy information, press releases, and other notices. Due to limited state funding KDOR has discontinued the printing of these publications; however all are available from our web site.

- Publication KS-1216, Kansas Business Tax Application
- Publication KS-1500, North American Industry Classification System
- Publication KS-1510, Kansas Sales and Compensating Use Tax
- Publication KS-1515, Kansas Tax Calendar of Due Dates
- Publication KS-1520, Kansas Exemption Certificates
- Publication KS-1525, Kansas Sales and Use Tax for Contractors, Subcontractors and Repairmen
- Publication KS-1526, Kansas Sales and Use Tax for Motor Vehicle Transactions
- Publication KS-1527, Kansas Sales and Use Tax for Kansas Political Subdivisions
- Publication KS-1530, Kansas Tire Excise Tax
- Publication KS-1540, Kansas Business Taxes For Hotels, Motels and Restaurants
- Publication KS-1550, Kansas Sales and Use Tax for the Agricultural Industry
- Publication KS-1560, Kansas Tax Guide for Schools and Educational Institutions
- Publication KS-1700, Kansas Sales Tax Jurisdiction Code Booklet
- KW-100, Kansas Withholding Tax Guide

STATE SMALL BUSINESS WORKSHOPS

As part of our commitment to provide tax assistance to the business community, Tax Specialists within KDOR conduct small business workshops on Kansas taxes at various locations throughout Kansas. Whether you are a new business owner, an existing business owner, or an accountant, these workshops will give you the tools and understanding necessary to make Kansas taxes easier and less time consuming for you. Topics covered include filing and reporting requirements and methods, what is taxable, what is exempt and how to work with the department in collecting and remitting Kansas taxes.

For a schedule of our workshops, visit our web site. Pre-registration is required and a fee may be charged by the sponsoring Small Business Development Center (SBDC).



Your suggestions and comments on this publication are important to us. Please address them to: Taxpayer Education, Kansas Department of Revenue, 915 SW Harrison St., Topeka, KS 66625-1588 or call (785) 296-1048.