

COMPLYING WITH STATE OF ILLINOIS SALES TAX STATUTES

Illinois PTA is a non-profit organization, recognized by the Internal Revenue Service and by the Illinois Department of Revenue. Each local PTA and Council shares in the exemption identification number (an “E” number) granted by the state to the Illinois PTA. Organizations in Illinois that have E numbers are allowed to make very limited types of sales to consumers without incurring sales tax liability.

In general, an exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities without incurring sales tax liability. Information on these rules and the interpretation of the laws can be found on the Illinois Department of Revenue website at www.revenue.state.il.us.

While private letter rulings are legally binding only on the organization which requested the ruling, these letters along with general information letters are posted on the Department of Revenue website to guide organizations on the intent and interpretation of the law. A review of this material has resulted in this advice.

Sales to Members

Sales to members for the organization’s purposes are exempt from sales tax. For example, if something like a parent/teacher directory or a PTA pin were sold only to PTA members that sale would be exempt. It should be noted that in ST00-0019-PLR (a private letter ruling concerning the sale of hot lunches) the Department of Revenue stated that “The Association is not a school...” which precludes PTAs from making tax-free sales to students and “the students are not members of the Association...” which precludes tax-free sales to students as members unless the organization is a PTSA and the students in question are members.

Noncompetitive Sales

Sales are noncompetitive if:

- √ They are conducted by members;
- √ All proceeds go to the fundraising group;
- √ Sales are only held annually or a small number of times each year; and
- √ If purchasers are buying the item primarily to make a donation, rather than to purchase the item being sold.

ST00-0020-PLR (a private letter ruling concerning gift wrap) states that “...the dominant motive of buyers of the wrapping paper is donative, and that a buyer’s purpose in buying the overpriced wrapping paper is clearly to make a charitable gift to the school as opposed to simply acquire the merchandise.” Based on this ruling, the price of the product seems to be an important factor in determining the intent of the buyer.

Sales Made at Occasional Dinners and Similar Activities

Regulations allow exempt groups to engage in selling these types of items to the public two times per calendar year without incurring sales tax liability. In ST00-0021-PLR it states that “This exemption extends to occasional dinners, ice cream socials, fun fairs, carnivals, rummage sales, bazaars, bake sales and the like, when conducted by such organizations, whether the items that are sold are purchased or donated for the purposes of the sale.” Additionally, ST02-0113-GIL states “...occasional sales can be sales where the organizations are purchasing the items for the purpose of resale.” **The organization may determine which two events are to be conducted tax-free.** Any sales in this category that would normally include a sales tax liability, beyond the two tax-free sales per calendar year would require the payment of sales tax.

Items Purchased for PTA Use

Any items for PTA use may be purchased without payment of sales tax. This includes items purchased to produce something to be sold, i.e. a sweatshirt that will be decorated or food items to be cooked and sold. Spaghetti dinners, pancake breakfasts and the like are free of sales tax liability only when the PTA prepares the food to be served. Any all-inclusive ticketed event like an ice cream social will be exempt from sales tax if the only money collected is for the ticket.

Sales of Donated Items

Sales of items previously used by the PTA or donated for resale do not carry a sales tax liability. These sales would include rummage sales, garage sales, bake sales and other sales of donated items in which the entire sale price benefits the PTA.

Hot Lunch Programs

Hot lunch programs are discussed in ST00-0019-PLR, as mentioned above. This ruling concluded that sales of hot lunches by a PTA to students do not qualify as sales to members or as noncompetitive sales. The ruling concludes that sales tax need not be paid only "...if the Association purchases the food items and prepares the hot lunches for the students. However, if the Association contracts with a caterer for the hot lunches for the students, the exemption is inapplicable." According to this ruling, the PTA can pay sales tax to the vendor from whom the food is purchased to meet the sales tax liability. Based on recent information, it may be possible to treat a hot lunch program as one (or both) of the sales tax free sales IF the sale is conducted on a once a year (or semester) basis.

Fun Fairs

Fun fairs may represent a combination of the types of sales discussed previously. If the fair were held as an all-inclusive ticketed event, there would be no sales tax liability. Often, they may include donated items like cakes for a cakewalk, purchased items like prizes for games, and the rental of equipment. None of these items should carry a sales tax liability. If the food at this event is prepared and sold by volunteers, there is no liability for sales tax on the food. However, if the food at this event is catered, there is a sales tax liability. Based on the information in ST00-0019-PLR regarding hot lunches, we recommend that you pay sales tax to the caterer.

How to Pay Sales Tax

When sales tax must be collected from purchasers and remitted to the State of Illinois:

- Address sales tax requirements in all contracts negotiated. Ask the vendor to be the seller of the goods. Therefore, the vendor would collect all proceeds, remit the sales tax and pay the profits to the PTA.
- Ask the vendor to build sales tax into the purchase price in brochures or price lists, and include a statement in the contract requiring the vendor to remit sales tax to the State of Illinois. (Some vendors are working with PTAs to offer this type of brochure.)
- Pay the sales tax on the price the vendor charges the PTA. Particularly when the selling price of an item is near the price paid to the vendor, this should adequately address the sales tax liability.
- Only as a last resort, collect sales tax on items, and remit directly to the Illinois Department of Revenue. (Based on anecdotal information, the department has discouraged local units from doing this.)

Please consult the attached chart for a concise guide to sales tax liability for certain fundraisers. Keep in mind that this guide is not all-inclusive and the rules previously discussed apply to all PTA sales.

The Illinois PTA will continue to review the sales tax regulations and keep you informed of any changes that occur. Should you have questions, or require additional information, please contact the Illinois PTA.