



BROWNSVILLE INDEPENDENT SCHOOL DISTRICT

BOOSTER CLUB/PARENT ORGANIZATION GUIDELINES

2017



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GENERAL INFORMATION

Parent Organizations/Booster Clubs are parent organizations established to promote school programs or complement student groups or activities. A Parent Organizations/Booster Club's purpose may be to support a student group or program at a particular school or various student groups or programs at various schools. Students enrich their education and expand their horizons when they participate in school activities and programs. Therefore, the district greatly appreciates the time, effort, and financial support that the Parent Organizations/Booster Clubs provide to our students.

Even though a Parent Organization/Booster Club works very closely with the District, it is a separate entity from the District. However, the formation of a Parent Organization/Booster Club must be approved by an appropriate District Principal or Administrator. In addition, a Parent Organization/Booster Club must adhere to various District policies and guidelines (GE Local), University Interscholastic League (UIL) guidelines, and federal and state regulatory guidelines.

Parent Organization/Booster Clubs are required to provide the BISD Internal Auditors the following annually:

- IRS Notice of FEIN
- IRS determination letter as a Section 501©(3) organization
- Annual financial statements
- Organization's officers
- Check signers

FORMATION OF ORGANIZATIONS

Organizations must prepare and adopt bylaws and operating procedures and provide copies to the Principal.

All booster and parent organizations must obtain a unique tax identification number on Form SS-4, Application for Employer Identification Number (EIN). Such organizations may not use the District's tax identification number (See GE Local and IRS website: www.irs.gov).

Obtain federal tax-exempt status as a public 501(c)(3) charitable organization by applying on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3), and obtaining a Letter of Determination from the Internal Revenue Service (IRS) that states the organization is tax-exempt from federal taxes (www.irs.gov).

If an organization is new, the organization should apply for and receive its tax-exempt status from the IRS within one year from the date the organization's constitution and bylaws are adopted.

Small tax-exempt organizations, with annual gross receipts normally \$50,000 or less, may submit Form 990-N, *Electronic Notice (e-postcard) for Tax-Exempt Organizations Not Required to File Form 990*, or 990-EZ, with the IRS each year. The organization MUST file a Form 990-N, 990-EZ, or Form 990 annually. Whatever form chosen is due by the 15th day of the fifth month after the close of the organization's tax year. Failure to file an annual report (Form 990-N, 990-EZ, or 990) for three consecutive years will automatically cause an organization to lose its tax-exempt status. To regain its exempt status, an organization will have to reapply for recognition as a tax-exempt organization (IRS Publication 557, www.irs.gov).

A nonprofit organization with an Internal Revenue Service (IRS) exemption under Section 501(c) (3), (4), (8), (10), or (19) is exempt from sales and franchise taxes. A booster club that has 501(c) federal exemptions should complete AP-204 (www.window.state.tx.us/taxinfo/taxforms/ap-204.pdf) and submit it, along with a copy of its IRS exemption letter, to the Comptroller's Office. After the Comptroller's Office notifies the club of its exempt status, the club can hold two one-day tax-free sales or auctions each calendar year.

BISD BOARD POLICY

**PURCHASES FOR
THE SCHOOL**

Before parent groups or other groups working with the school purchase equipment for the schools, including computer hardware and software, they shall notify the principal of their plans. In consultation with the Superintendent or designee, the principal shall determine the type or brand of equipment to buy to ensure compatibility with current District equipment.

**PARENT-TEACHER
ORGANIZATION**

The Board recognizes the valuable services performed by the parent-teacher organization and its state and local divisions as a representative agency whose objectives are to:

1. Promote the welfare of children and youth in home, school, church, and community;
2. Raise the standards of home life;
3. Secure adequate laws for the care and protection of children and youth;
4. Bring into closer relations the home and the school so that parents and teachers may cooperate intelligently in the training of the child; and
5. Develop between educators and the general public united efforts to secure the highest advantages in physical, mental, social, and spiritual education for every student.

The Board further suggests that the Brownsville City Council Parent-Teacher Organization and groups with whom they cooperate maintain a close liaison with the Board, administration, and staff and maintain an awareness of established District policies.

**FORMATION OF
ORGANIZATIONS**

All booster and parent organizations must obtain a unique tax identification number on Form SS-4, Application for Employer Identification Number (EIN). Such organizations may not use the District's tax identification number.

All PTAs, PTOs, and booster clubs are encouraged to:

1. Obtain federal tax-exempt status as a public 501(c)(3) charitable organization by applying on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3), and obtaining a Letter of Determination from the Internal Revenue Service (IRS) that states the organization is tax-exempt from federal taxes.

RELATIONS WITH PARENT ORGANIZATIONS

GE
(Local)

If an organization is new, the organization shall be encouraged to apply for its tax-exempt status from the IRS within one year from the date the organization's constitution and bylaws are adopted.

If an organization loses its public 501(c)(3) tax-exempt status or if this tax-exempt status expires, the organization shall be encouraged to take the necessary steps to regain the tax-exempt status within one year from the date of notification from the IRS of the loss of exemption or within one year from the tax-exempt expiration date.

2. Submit the organization's EIN and a copy of the IRS's Letter of Determination to the District's internal auditor (if available).

LIAISON

The designated faculty sponsor of a student activity area shall serve as the liaison, under the supervision of the principal, between a parent group formed in connection with a student activity and the District.

The designated faculty sponsor acting as the liaison shall:

1. Approve all student- or school-related activities of such organizations;
2. Work with the organizations to establish approved goals and student-support activities for the respective organizations;
3. Assist in setting the budgets of such organizations and ensuring that expenditures of such organizations are in direct support of the goals of the designated programs;
4. File lists of officers of the respective organizations with the school principal at the beginning of each school year and revise such lists as officers change during the school year; and
5. File lists of organization activities for the coming year with the principal at a date established by the principal. Additional activities should be submitted, at least 30 days prior to the event, to aid in the development of the master calendar for the school.

AUTHORIZED
SIGNER

No District employee shall be an authorized signer for the bank account of a PTA, PTO, or booster club.

The designated faculty sponsor who serves as a liaison between the parent group and the District principals, principals' secretaries, and bookkeepers shall be prohibited from serving as officers.

RELATIONS WITH PARENT ORGANIZATIONS

GE
(Local)

FUNDRAISING

All community and school-support organization fund-raising efforts shall fall within federal, state, and District guidelines and shall be for the purpose of supporting the school program or group activity for which the organization was formed. [See GKB]

According to the IRS, revenues generated from fund-raising activities by a tax-exempt organization should benefit the organization, the sponsored student group, or the student activity area as a whole, not individuals. Therefore, individual accounts that credit individuals for their fund-raising efforts may not be used.

All members of the organization must receive an equal opportunity to benefit from the fund-raising activities, regardless of whether or not a person participated in the fund-raising activities.

In addition, according to the IRS, tax-exempt organizations may not require people to participate in fund-raisers. Benefits given by a parent organization cannot be distributed based on participation in a fund-raiser or based on revenues individually generated in a fund-raiser. Therefore, a person cannot be denied the opportunity to receive a benefit because of lack of participation in a fund-raiser or because a specified amount of revenue was not raised.

Careful considerations should be given to limiting the number of major fund-raising activities involving students. All such activities require the approval of the designated sponsor(s) and the principal.

FINANCIAL
HARDSHIP

An organization may establish written criteria for giving certain benefits to an individual with a financial hardship. If a student meets the written criteria, the student may then receive a benefit that others do not receive. Such a benefit is an approved exception by the IRS to having all members receive an equal opportunity to benefit from fund-raising activities. The criteria for financial hardship should not change to allow a particular individual to meet the criteria. The financial hardship criteria should be applied consistently to all recipients, and the criteria must be established prior to a financial hardship situation arising.

In the event that students pay a designated amount to attend a trip, a student who meets the financial hardship criteria may have the full amount of his or her trip paid by the organization.

NOTICE OF FUND-
RAISING ACTIVITIES

A parent or community organization desiring to conduct a fund-raising activity for a school shall submit the following information to the campus principal at least

RELATIONS WITH PARENT ORGANIZATIONS

GE
(Local)

30 days prior to the event:

1. Purpose of the fund-raiser;
2. Type of fund-raising activity (i.e., candy sale and the like);
3. Date, time, and place of the activity;
4. Name of sponsoring organization; and
5. Name of the person or people who will be handling the money for the fund-raiser.

BONFIRES

Bonfires shall be prohibited.

BOOSTER
ORGANIZATIONS

School-related booster organizations shall organize and function in a way that is consistent with the District's philosophy and objectives and in accordance with Board policies and UIL guidelines, as applicable. District booster clubs shall:

1. Be voluntary and provide unified support for student activities of the school.
2. Be limited to a single club or organization for each area of student activity, i.e., athletics, band, choir, or dance team.
3. Encourage involvement by all parents of students participating in the supported activity.
4. Use school facilities only with the prior approval of the principal or designee, in accordance with policy GKD.
5. Not be involved in decision or policy-making activities for a student group.
6. Have no authority in directing or influencing District employees in the administration of duties.
7. Comply with all UIL guidelines.
8. Comply with administrative regulations and Board policy when offering money or gifts to the District [see CDC].
9. Submit a copy of current adopted bylaws and operating procedures to the principal.
10. Prepare a written financial report of actual revenues and

RELATIONS WITH PARENT ORGANIZATIONS

GE
(Local)

expenditures for the school year. The treasurer of the booster club should prepare the financial report.

11. Have an organizational review committee conduct an annual review of the organization's financial report and the related financial activity for the school year and prepare a written report communicating the results of the committee's review to the organization.
12. Submit the annual financial report and the review committee's report to the school principal and to the District's internal auditor by the beginning of each year.
13. Pay all taxes and other debts incurred by the organization.
14. Issue receipts for all money received.

RAFFLES

[Refer to GKB(LEGAL) for definition]

RELATIONS WITH PARENT ORGANIZATIONS

GE
(LEGAL)

PARENT-TEACHER
ORGANIZATIONS

The Board shall cooperate in the establishment of ongoing operations of at least one parent-teacher organization at each school in the District to promote parental involvement in school activities.
Education Code 26.001(e)

UIL BOOSTER CLUB GUIDELINES

Updated July 2016

www.uiltexas.org

Role of Booster Clubs

Neighborhood patrons form booster clubs to help enrich the school's participation in extracurricular activities. The fundraising role of booster clubs is particularly crucial in today's economic climate. Positive and direct communication can prevent most problems. Keep the superintendent informed of all activities.

- Have a chain of command for communication with the administration.
- Clear all activities through your administration.
- The superintendent or designee who does not coach or direct a UIL contest but has approval authority over booster clubs should be invited to all meetings. All meeting should be open to the public.
- Booster clubs should apprise school administrators of all club activities. Make sure your local administration has a copy of all booster club publications. Invite administrators to all booster club meetings. Have an officer meet with the school administration regularly
- School administration should apprise booster clubs of all school activities.
- Booster clubs do not have authority to direct the duties of a school district employee. The scheduling of contests, rules for participation, methods of earning letters and all other criteria dealing with inter-school programs are under the jurisdiction of the local school administration.
- Minutes should be taken at each meeting and kept on file at the school.
- Periodic financial statements itemizing all receipts and expenditures should be made to the general club membership and kept on file at the school.

Written Policies

Booster clubs should develop and annually review policies to cover:

- how to obtain administrative approval before beginning projects;
- how to plan and publicize meetings;
- bookkeeping and fund administration including process to obtain superintendent's approval prior to raising or spending funds;
- election of officers (suggestion: one president; one secretary; one treasurer; and three vice - presidents: one vice president to oversee fall, winter and spring sports);
- taking, distributing and filing minutes;

- public communication;
- proper interaction with fine arts directors and academic, and athletic coaches through the lines of authority as established by the school board;
- a sportsmanship code governing behavior of booster club members and fans at contests, treatment of officials, guests, judges, etc.; and
- plans to support the school regardless of success in competition, keeping the educational goals of competition at the forefront of all policies.

Role of the Superintendent

Member schools make UIL rules and determine policies regarding penalties to schools, school district personnel, and student participants. The superintendent is solely responsible for the entire UIL program. All school activities, organizations (including the booster club), events, and personnel are under the jurisdiction of the superintendent. Booster clubs must recognize this authority and work within a framework prescribed by the school administration.

Parents

- Remember: the classroom comes first!
- Help conduct fair and equitable competition: adhere to rules, uphold the law, and respect authority.
- Remember that officials are human. Respect their decisions.
- Delegate authority to the school, then support its decisions.
- Set standards by which you expect children to conduct themselves, and live by those standards yourself.
- Be aware of capabilities and limitations of young people. Do not have unrealistic expectations.
- Allow your children to live their own lives.
- Be involved in areas in which your own child is not involved, thus contributing to school unity and spirit.
- Show respect to the opponents of your children.
- Praise. Do not criticize. Urge others to do the same.
- Help your children and their friends develop integrity through the intensity of competitive activity.

Coaches and Fine Arts Directors

- Be sure your that booster club wish list has been approved by your supervisor before it goes to the booster club.
- Work with your administration to determine what your club can provide.
- Make your request to the club benefit as many students as possible.

- Attend the booster club meetings and/or know what the club is doing.
- Understand that your advisory role to the boosters is without vote.
- Support other programs in your district.
- Meet with parents regularly and make them aware of relevant rules.
- Involve your staff with the booster club. Let the booster club know who your staff are and what duties they perform.

Club Finances

Fundraising | Spending | Stipends | Gifts to Coaches

Fund-raising projects may be subject to state law. Be sure that your club is in compliance with applicable law. For example, Texas has a law governing raffles. Also, consider seeking nonprofit or tax-exempt status. Consult the Texas Secretary of State's website as well as the IRS to determine if seeking designation as a non-profit that is tax exempt is appropriate for your booster club.

http://www.sos.state.tx.us/corp/nonprofit_org.shtml

Generally speaking, earnings by a properly organized booster club may not benefit any private shareholder or individual.

- Community-wide sales campaigns should be coordinated through the school administration to minimize simultaneous sales campaigns.
- Sales campaigns should be planned carefully to insure that the projects provide dollar value for items sold, and that most of the money raised stays at home. Otherwise donations are often more rewarding than letting the major part of the money go to outside promoters.
- Fund-raising activities should support the educational goals of the school and should not exploit students. Activities and projects should be investigated carefully before committing the school's support.
- Individuals who actively coach or direct a UIL activity should serve in an advisory capacity to the booster club and should not have control or signature authority over booster club funds, including petty cash or miscellaneous discretionary funds.
- Coach's wish lists should have received prior approval from school administration before submission to boosters.
- Coaches and directors of UIL academics, athletics, and fine arts may not accept more than \$500 in money, product or service from any source in recognition of or appreciation for coaching, directing or sponsoring UIL activities. The \$500 limit is cumulative for a calendar year and is not specific to any one particular gift. See Section 481, *UIL Constitution and Contest Rules*.
- Schools shall not pay to coaches, and coaches shall not accept, funds gathered by a high school booster club or other sources within the district. See Section 1202(b), *UIL Constitution and Contest Rules*.
- Funds are to be used to support school activities. To provide such funding for non-school activities would violate UIL rules and the public trust through which funds are earned.

Athletic Boosters

Individuals should be informed of the seriousness of violating the athletic amateur rule found in Section 441 and the awards rule found in Section 480 of the UIL *Constitution and Contest Rules*. Check with school administrators before giving anything to a student, school sponsor, or coach. The penalty to a student-athlete is forfeiture of varsity athletic eligibility in the sport for which the violation occurred for one calendar year from the date of the violation. If a team violates the amateur rule, the penalty shall be assessed against the team and not against each individual. See Section 441(d) UIL *Constitution and Contest Rules*. All fans, not just members of the booster club, should be aware of these rules. It affects the entire community.

- Athletic booster club funds shall not be used to support athletic camps, clinics, private instruction, or any activity outside the school.
- The local school district determines when, how, and from whom student athletes can receive meals and snacks. See Section 441(d) UIL *Constitution and Contest Rules*.
- Schools must give prior approval for any banquet or get-together given for students.
- Students may not accept money or other valuable consideration from school booster club funds for any non-school purpose. See Section 441(A)(3), UIL *Constitution and Contest Rules*.
- Student athletes are prohibited from accepting valuable consideration for participation in school athletics – anything that is not given or offered to the entire student body on the same basis that it is given or offered to an athlete. See Section 441(a), UIL *Constitution and Contest Rules*. Valuable consideration is defined as tangible or intangible property or service including anything that is usable, wearable, salable, consumable.
- Booster groups or individuals may donate money or merchandise to the school with prior approval of the administration. These kinds of donations are often made to cover the cost of commercial transportation or to cover costs for meals. It would be a violation for booster groups or individuals to pay for such costs directly, without prior approval from the local school administration. See Section 441(b)(9) and Section 840 (a)(2)(A)(iv).
- Student athletes may accept small “goodie bags” consisting of cookies, candy, and symbolic gifts from their classmates, if allowed by local school policy. See Section 441(B)(7), UIL *Constitution and Contest Rules*.

Academic Boosters

We encourage academic booster clubs, whether they cover UIL academic competition in general or specific programs such as theatre, speech/debate, journalism, or math/science. A great need exists for parental involvement and support.

The rules for athletics are different than the rules for academics and music. Athletes are restricted by the Athletic Amateur Rule, which states that athletes cannot accept money or valuable consideration for participating in a UIL sport or for allowing their names to be used in promoting a product, plan, or service related to a UIL contest. Academics has no amateur rule. Journalism participants may work for a

newspaper and be paid. Actors may work summer stock and be paid. Students may win calculators and software for participating in invitational math contests.

UIL academic students are restricted by the awards rule. See Section 480, *UIL Constitution and Contest Rules*. So, as a general practice, booster clubs should not give awards to students for the participation in UIL contests that count toward district, region, or state standing without prior school district approval. School booster clubs may raise money to purchase letter jackets, provided the funds are given to the school without designation to buy jackets for particular students and the school determines criteria for awarding the jackets. Parents may purchase jackets for their own children provided the school designates the student as being qualified to receive the jacket.

Booster Clubs may raise money to provide an annual banquet for academic participants and coaches.

EXAMPLES OF ACADEMIC BOOSTER CLUB CONTRIBUTIONS THAT ARE NOT PROHIBITED BY UIL RULE, WITH LOCAL ADMINISTRATIVE APPROVAL, ARE:

- Purchase equipment for programs such as computers or software for yearbook or computer science.
- Organize and chaperone trips and assist with expenses for travel to academic competitions or educational trips such as journalism conventions or speech tournaments. Booster club funds may be used to provide food and refreshments for students on these trips. A purely recreational trip would not meet the definition of an educational field trip and could be considered a violation of the Awards Rule, See Section 480(2)(d), *UIL Constitution and Contest Rules*.
- Run tournaments, organize fund-raising efforts, recruit corporate donors, raise money for scholarships, and arrange for tutors and professional trainers to work with students.
- Fund academic workshop scholarships provided selection of the recipients is not based solely on their success in interscholastic competition. Selection could be based on grade point average or the student's selection of high school courses. All students meeting the conditions for scholarship assistance should be notified and eligible for financial assistance. Funds should be monitored to ensure that they are expended for camp or workshop purposes.

Music Boosters

In addition to the general procedures outlined, the following guidelines apply to Music Booster Club activities.

- Be mindful of the fact that there is no Music Amateur Rule. Therefore, limitations established in athletics intended to ensure compliance with the Athletic Amateur Rule does not apply to music programs and related activities.
- Some music booster clubs assist with expenses for travel to various music-related activities such as UIL contests and performances at away athletic events. Such financial support violates no UIL rules provided that it is approved and coordinated by the local school district.

- Many music groups schedule educational field trips with the approval of the local school administration and under local school district policies. For such trips, specific educational components must be included such as performing for a music festival, an adjudicated contest, or a concert tour. Marching performances such as the Macy's Thanksgiving Day Parade, the Rose Bowl Parade, or other similar ceremonial appearances also qualify. However, educational components need not be limited to performances. Concert attendance, visiting university/conservatory music facilities, and other music related, non-performing opportunities would also be appropriate if approved by the local school district.
- A recreational trip, on the other hand, would not meet the definition of an educational field trip as provided in Section 480 of the UIL Constitution and Contest Rules. Students receiving the benefits of a purely recreational trip would likely be in violation of the Awards Rule.
- Booster Clubs may also fund scholarships for private lessons and summer music camps provided the selection of the recipients is not based on success in interscholastic competition. Funds for such activities should be carefully monitored to ensure that they are expended for educational rather than recreational activities.
- The awarding of patches, T-shirts, or other items for achievement in interscholastic competition would be subject to the UIL Awards Rule. In order to protect all music students' eligibility, such awards should be approved and administrated by the local school district in accordance with school district policies.

APPLYING FOR A FEDERAL TAX ID NUMBER

www.irs.gov

Applying for an EIN is a free service offered by the Internal Revenue Service. Beware of Web sites on the Internet that charge for this free service.

If you are a home-care service recipient who has a previously assigned EIN either as a sole proprietor or as a household employer, do not apply for a new EIN. Use the EIN previously provided. If you cannot locate your EIN for any reason, follow the instructions on the [Lost or Misplaced Your EIN?](#) Web page.

Apply Online

The [internet](#) application is the preferred method for customers to apply for and obtain an EIN. Once the application is completed, the information is validated during the online session, and an EIN is issued immediately. The online application process is available for all entities whose principal business, office or agency, or legal residence (in the case of an individual), is located in the United States or U.S. Territories. The principal officer, general partner, grantor, owner, trustee, etc. must have a valid Taxpayer Identification Number (Social Security Number, Employer Identification Number, or Individual Taxpayer Identification Number) in order to use the online application.

Apply by Toll-Free Telephone Service

Taxpayers can obtain an EIN immediately by calling the Business & Specialty Tax Line at (800) 829-4933. The hours of operation are 7:00 a.m. - 7:00 p.m. local time, Monday through Friday. An assistor takes the information, assigns the EIN, and provides the number to an authorized individual over the telephone. Note: International applicants must call (267) 941-1099 (Not a toll-free number).

Apply By FAX

Taxpayers can FAX the completed [Form SS-4](#) (PDF) application to their state FAX number (see [Where to File - Business Forms and Filing Addresses](#)), after ensuring that the Form SS-4 contains all of the required information. If it is determined that the entity needs a new EIN, one will be assigned using the appropriate procedures for the entity type. If the taxpayer's fax number is provided, a fax will be sent back with the EIN within four (4) business days.

Apply By Mail

The processing timeframe for an EIN application received by mail is four weeks. Ensure that the [Form SS-4](#) (PDF) contains all of the required information. If it is determined that the entity needs a new EIN, one will be assigned using the appropriate procedures for the entity type and mailed to the taxpayer. Find out where to mail Form SS-4 on the ["Where to File Your Taxes" \(for Form SS-4\)](#) page.

Other Important Information

Daily Limitation of an Employer Identification Number

Effective May 21, 2012, to ensure fair and equitable treatment for all taxpayers, the Internal Revenue Service will limit Employer Identification Number (EIN) issuance to one per [responsible party](#) per day. This limitation is applicable to all requests for EINs whether online or by phone, fax or mail. We apologize for any inconvenience this may cause.

Responsible Party

In order to identify the correct individuals and entities applying for EINs, language changes have been made to the EIN process. Refer to [Responsible Parties and Nominees](#) to learn about these important changes before applying for an EIN.

Third Party Authorization

The Third Party Designee section must be completed at the bottom of the Form SS-4. The Form SS-4 must also be signed by the taxpayer for the third party designee authorization to be valid. The Form SS-4 must be mailed or faxed to the appropriate service center. A third party designee may call for an EIN; however a faxed Form SS-4, with the taxpayer's signature, is still required. IRS assistors will take the information over the phone from the third party designee and ask the third party to fax the completed Form SS-4 to them (to the IRS assistor's attention) at an administrative fax number. After receiving the faxed Form SS-4, the EIN will be assigned and faxed back to the third party designee, or given over the phone. The third party designee's authority terminates at the time the EIN is assigned and released to the designee

Tax-exempt Status

After receiving an EIN, organizations must apply for tax-exempt status. According to Board Policy GE (Local), all Parent Organizations/Booster Clubs should seek tax-exempt status with the IRS as a public 501(c)(3) organization. Complete IRS Package 1023 (Application for Recognition of Exemption) in accordance with IRS guidelines. www.irs.gov

SALES AND USE TAX

www.window.state.tx.us

Glenn Hegar • Texas Comptroller of Public Accounts • Tax Help: tax.help@cpa.state.tx.us • Window on State Government: www.window.state.tx.us • SALES AND USE TAX BULLETIN • School Fundraisers and Texas Sales Tax, 94-183 (07/09)

SALES AND USE TAX

BULLETIN

Glenn Hegar, Texas Comptroller of Public Accounts

School Fundraisers and Texas Sales Tax

Texas school districts, public schools, qualified exempt private schools and each bona fide chapter within a qualifying school are exempt from the payment of Texas sales and use tax on purchases of taxable items for their use, if the purchases are related to the organization's exempt function.

The organization must obtain a sales tax permit and collect and remit sales tax on taxable items it sells unless one of the exemptions listed below applies. An organization does not have to register for a sales tax permit if all its sales are of exempt items or if its sales take place through tax-free fundraisers.

Two One-Day Tax-Free Sales

School districts, public schools, qualified exempt private schools and bona fide chapters within a qualifying school may conduct two one-day tax-free sales or auctions each calendar year. For the purposes of this exemption, one day is counted as 24 consecutive hours and a calendar year is the 12-month period from January through December. See subsection (h) of Rule 3.322, "Exempt Organizations."

For example, a school may sell taxable items such as t-shirts, hats, uniforms, school supplies or crafts tax-free on a designated tax-free sale day. These days should be designated in advance so that purchasers are aware that the sales are not subject to tax. The organization may not collect tax on the transactions and keep the tax under the "tax-free" sale provision. The exemption does not apply to any item sold for more than \$5,000 unless it is manufactured by the organization or donated to the organization and not sold back to the donor.

Either the date on which the items are delivered by the vendor to the school organization or the day on which the school organization delivers the items to its customers may be designated as the one-day tax-free sale day. Persons buying from surplus inventory on the designated date do not owe tax. Those

buying on subsequent dates owe tax unless the purchase occurs on the organization's other tax-free sale day.

For example, a school group selling yearbooks may accept pre-orders without collecting tax if the day the yearbooks will be delivered to customers is designated as one of the group's tax-free fundraisers. Surplus yearbooks sold during the same day also qualify for the exemption. Surplus yearbooks sold on other days are taxable unless sold at the group's other tax-free fundraiser.

If two or more groups hold a one-day tax-free sale together, the event counts as one tax-free sale for each participating organization. Each of those organizations then is limited to one additional tax-free sale during the remainder of the calendar year.

If an exempt organization is purchasing taxable items for resale during its designated tax-free sale days and it holds a sales tax permit, the organization may either give the retailer a resale certificate, Form 01-339 (front), or an exemption certificate, Form 01-339 (back) to purchase the items tax-free. A non-permitted exempt organization, however, may purchase items for resale tax-free by issuing an exemption certificate to the vendor for items sold during its two one-day, tax-free sales.

Schools and Bona Fide Chapters

To qualify as a bona fide chapter of a school, a group of students must be organized for an activity other than instruction or to have a tax-free sale. Bona fide chapters include student groups recognized by the school and organized by electing officers, holding meetings and conducting business. There is no limit on the number of bona fide chapters a school can have. Bona fide chapters can include whole grade levels (e.g. senior class, junior class or freshmen), but cannot be limited to specific classes (e.g. Senior English or Biology II). Various other school groups such as a student council, science club or drama club can qualify if they are composed of students and school staff.

A department of a school, such as a purchasing, accounting, maintenance or IT department, is not a bona fide chapter even though it is part of the school or school district.

Groups that are not considered bona fide chapters, unless otherwise qualified to hold the two one-day tax-free sales, must obtain a sales tax permit and collect and remit sales tax on all taxable items sold at fundraisers. Non-student organizations such as booster clubs and PTAs/PTOs cannot qualify as bona fide chapters of a school, but may qualify for the tax-free sale days under other provisions of the Tax Code. See the "Nonstudent Nonprofit Organizations" section in this publication for more information.

Non-Qualifying Fundraisers – Acting as an Agent or Sales Representatives

When a school, school group, PTA/PTO, booster club or other exempt organization raises funds by acting as a sales representative or commissioned sales agent for a for-profit retailer, the group is not responsible for reporting and remitting sales and use tax. As a result, however, the exempt organization is not considered to be the seller and cannot use a tax-free sale day for this type of event. In these cases, the group receives a commission for holding a book fair or for selling candy, gift wrap, holiday ornaments, candles or similar items.

When an exempt organization acts as a commissioned sales agent or representative for a for-profit seller, the seller should provide instructions and information regarding the proper collection of tax. The for-profit retailer may advertise in the sales catalog or state on each invoice that tax is included or require that tax be calculated and collected based on the selling price of each taxable item. The for-profit retailer is then responsible for remitting the tax collected or backed out to the Comptroller. Similarly, sales of taxable items made through the Web site of a for-profit retailer are also taxable and may not be sold tax-free in connection with a fundraiser.

Nonstudent Nonprofit Organizations

Nonstudent nonprofit organizations that are not bona fide chapters of schools may qualify for two one-day tax-free sales or auctions on their own.

A booster club for a band, football team or similar group may hold two one-day tax-free sales or auctions once it has obtained a sales tax exemption from the Comptroller's office on its purchases.

A nonprofit organization with an Internal Revenue Service (IRS) exemption under Section 501(c)(3), (4), (8), (10) or (19) is exempt from sales and franchise taxes. A booster club that has 501(c) federal exemptions should complete AP-204 (www.window.state.tx.us/taxinfo/taxforms/ap-204.pdf) and submit it, along with a copy of its IRS exemption letter, to the Comptroller's office. After the Comptroller's office notifies the club of its exempt status, the club can hold two one-day tax-free sales or auctions each calendar year.

Parent-teacher associations (PTAs) affiliated with the Texas state PTA or the national PTA are exempt as educational organizations and can hold two one-day tax-free sales or auctions each calendar year.

Parent-teacher organizations (PTOs), as well as **parent-teacher-student associations (PTSAs)** and **organizations (PTSOs)**, are also exempt from sales tax as educational organizations.

PTAs *not* affiliated with the Texas state PTA or the national PTA, parent-teacher organizations (PTOs) and parent-teacher-student associations (PTSAs) and organizations (PTSOs) are also eligible for exemption from sales tax as educational organizations. These organizations should complete form AP-207 and submit it to the Comptroller's office. Once the exemption has been granted, these organizations can also hold two one-day tax-free sales or auctions each calendar year.

Sales of taxable items by PTAs, PTOs, PTSAs, and PTSOs made at other times of the year are subject to tax.

Internet Sales

Sales of taxable items over the Internet are treated the same as sales of taxable items made at the school or at any other sales location. Schools, school groups and other non-student, nonprofit organizations that accept online orders through a Web site must collect sales tax on taxable items they sell online. An online sale occurring during a one-day tax-free sale, however, would qualify for the exemption.

Food and Beverage Sales

A public or private elementary or secondary school, school group or PTA/PTO does not have to collect tax on sales of meals and food products (including candy and soft drinks) if the sales are made during the regular school day and by agreement with the proper school authorities. This exemption includes food, soft drinks and candy sold through vending machines.

PTAs/PTOs and other qualifying groups associated with a specific public or private elementary or secondary school or school group may also sell meals, food, candy or soft drinks tax-free outside of the school day if the sales are part of the organization's fundraising drive and all net proceeds go to the group for its exclusive use.

Concession Stands

Concession-stand food sales are exempt from tax when made by a school group, PTA/PTO or other group (such as a booster club) associated with a public or private elementary or secondary school, if the sales are part of the organization's fundraising drive and all net proceeds go to the organization for its exclusive use. The exemption applies to sales of soft drinks and candy, but does not include sales of alcoholic beverages. The group can issue an exemption certificate in lieu of paying tax on purchases of candy, sodas, gum and other taxable food items sold at its concession stand. The exemption certificate should state that the group will sell the items as a fundraiser.

Annual Banquets and Annual Food Fundraisers

All volunteer nonprofit organizations can hold a tax-free annual banquet or other food sale provided the event is not professionally catered; is not held in a restaurant, hotel or similar place of business; is not in competition with a retailer required to collect tax; and the food is prepared, served and sold by members of the organization. The exemption does not apply to the sale or purchase of alcoholic beverages.

To qualify for exemption, the food sale must:

- be an annual event;
- last no more than one week;
- be a fundraising project exclusively provided by the volunteers of the participating nonprofit organizations;
- be non-commercial in every respect (that is, the food and beverages cannot be prepared or served by a caterer or a restaurant, and must be prepared and served by the participating organizations' volunteers, without pay); and
- not be held in competition with a retailer at the same event who must collect tax on food and beverage sales.

The annual food sale or banquet exemption does not apply to sales of alcoholic beverages or non-food items (e.g., arts, crafts or t-shirts). Alcoholic beverages are not food products and are taxable. The type of tax due (sales tax or mixed beverage gross receipts tax) depends upon the type of permit held by the selling organization. Sales of alcoholic beverages, including beer, wine and mixers, are subject to the

Texas 14 percent mixed beverage gross receipts tax when sold by a mixed-beverage permit holder, while sales of beer and wine made by a beer and wine-only permit holder are subject to sales tax.

Nontaxable Sales

Some items are not subject to sales tax no matter who sells them.

Nontaxable Food Items

Sales tax is not due on nontaxable food items. Examples of such items include cookie dough, pizza kits, cheese spreads, meat sticks, jelly, salsa, fresh fruit and mixes packaged for preparation at home.

Magazine Subscriptions

Subscriptions to magazines entered as periodicals-class (formerly called second-class) mail and sold for six months or more are exempt from sales tax. Single issues and subscriptions for fewer than six months are taxable, however.

Bakery Items

Bakery products (including but not limited to pies, cakes, cookies, bagels and muffins) are exempt unless sold with plates or eating utensils.

Gift Certificates and Passbooks

Sales of intangibles such as gift certificates and coupon passbooks are not subject to sales tax. Instead, retailers should collect tax when the certificate or coupon is redeemed for the purchase of taxable merchandise or services. The tax is based on the item's actual retail selling price less any cash discount given at the time of the sale (e.g., a deduction for a coupon). Of course, if the gift certificate is for a nontaxable service such as a haircut, manicure or facial, no sales tax is due when the certificate is redeemed. Taxable services are listed in "Taxable Services" (Tax Publication 96-259.)

Car Washes

Washing a car is not a taxable service under the Texas Tax Code. Groups holding car washes are not required to collect tax on their charges for this service.

Amusement Services

The sale of an amusement service provided exclusively by a nonprofit organization, other than an IRS Section 501(c)(7) organization, is exempt from sales tax. For example, the sale of an admission ticket to a school carnival, dance, athletic event or musical concert is exempt.

Periodicals and Writings

Periodicals and writings (reading materials including those presented on audio tape, videotape and computer disk) are exempt from tax if published and distributed by a religious, philanthropic, charitable, historical, scientific or other similar organization not operated for profit. A “similar” organization must be organized for a benevolent purpose and must not be operated for profit. Similar organizations include PTAs, PTOs, PTSAs and PTSOs, but exclude all public and private educational organizations.

This means that PTAs, PTOs, PTSAs and PTSOs may publish and sell printed reading materials such as yearbooks, books, calendars, directories, magazines, brochures and newsletters without collecting sales tax. The qualifying organization may issue a properly completed resale certificate to the printer in lieu of paying tax on charges for printing, binding and item placement.

Items that contain printed materials that can be read but primarily serve other purposes or functions, such as school logo t-shirts, bookmarks, photographs and novelties, are subject to sales tax *unless* sold during a qualifying and designated tax-free sale or auction.

School districts, schools and school groups, however, must collect tax on sales of printed reading materials unless the sale is designated as one of the organization’s tax-free fundraisers.

Donations

A purchaser using personal funds may give an exemption certificate to vendors when buying taxable items that will be donated to a qualifying organization, such as a school, before the individual makes any use of the items. The exemption certificate must state that the taxable item is being purchased by the individual for donation to an exempt organization and must clearly identify the organization accepting the donation (see Tax Code Section 151.155[b]). If the purchaser makes use of the item before it is donated, the purchaser is responsible for paying or accruing tax on the item’s purchase price.

Donations (gifts) of cash or taxable items or services made to an organization are not taxable sales unless the exempt organization gives the donor a taxable item in exchange for the donation, and the item is of proportionate or equal value to the donation.

Sales to Students

Generally, other than the exemptions previously identified, schools and associated groups must collect, report and remit sales tax on taxable items that they sell or taxable services they provide to others, including sales made to students.

Schools may issue a resale certificate in lieu of paying tax to suppliers when purchasing taxable items to sell. Schools may issue an exemption certificate in lieu of paying tax when purchasing taxable items for their use or for giving away to students or others as part of a course of instruction. A district must collect tax on the sales price of taxable items when selling them to students or to others.

For example, if a school sells uniforms, gloves and shoes to drill team members, it must collect tax on the sales unless it designates their sale as one of its two one-day tax-free sales. The school may purchase the uniforms tax-free for resale to the drill team members.

Below is a short list of examples of taxable and nontaxable sales.

TAXABLE

Rental of tangible personal property such as locks, musical instruments, calculators and computers

Horticultural products such as flower arrangements, roses, carnations, holiday greenery and poinsettias

Cosmetology products such as shampoo, conditioner and nail polish sold to customers

Parking permits for the general public

Animals that do not ordinarily constitute food or food products, such as hamsters, mice, cats and dogs

Publications such as football, basketball or volleyball programs

Automobile repair parts (a separately stated charge for parts is taxable; a separately stated charge for repair labor is not taxable)

Car carpet shampooing

Magazines (single issue or subscription less than six months)

NONTAXABLE

Rental of real property such as a gymnasium, auditorium, library or cafeteria

Agricultural products (plants and seeds), the products of which ordinarily constitute food for human consumption

Cosmetology services such as haircuts, shampoo, manicures and pedicures

Parking permits for public school students, faculty and staff

Farm animals such as pigs, cows, chickens and other livestock

Sales of advertising space in athletic programs, yearbooks, newspapers

Automobile repair (a lump-sum charge for parts and labor)

Car washes

Magazine subscriptions for six months or longer

Need More Information?

For more information, see:

Rule 3.286, "Seller's and Purchaser's Responsibilities"

Rule 3.322, "Exempt Organizations"

Rule 3.293, "Food; Food Products; Meals; Food Service"

Rule 3.298, "Amusement Services"

Rule 3.299, "Newspapers, Magazines, Publishers, Exempt Writings"

Tax Publication 96-122, "Exempt Organizations - Sales and Purchases" — Frequently Asked Questions section provides information about school organizations applying for exemption from state taxes.

Tax Publication 96-259, "Taxable Services"

Please use our Texas Online Sales Tax Registration System to apply for a sales tax permit. An application also can be downloaded from our Tax Forms Online page. You can also obtain an application by calling (800) 252-5555 or by visiting one of our enforcement field offices.

For questions about an organization's Texas tax-exempt status, please use our Texas Tax-Exempt Entity Search, write to exempt.orgs@cpa.state.tx.us, or call Tax Assistance at (800) 531-5441 and ask for the Exempt Organizations Section.

For information on how to apply for federal exemptions, contact the U.S. Internal Revenue Service at (877) 829-5500 or online at <http://www.irs.gov/>.

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CONTACT LIST



STATE

OFFICE OF THE ATTORNEY GENERAL

www.oag.state.tx.us

Brownsville Office

956-544-1751

Consumer Protection Hotline

1-800-621-0508

Public Information & Assistance

877-673-6839

TEXAS SECRETARY OF STATE

www.sos.state.tx.us

512-463-5555

TEXAS STATE COMPTROLLER'S OFFICE

www.window.state.tx.us

www.window.state.tx.us/taxinfo/taxpubs/tx94_183.pdf

Exempt Organizations Department

1-800-252-5555

Austin Office

512-463-4600

Brownsville Office

956-542-8426

UNIVERSITY INTERSCHOLASTIC LEAGUE (UIL)

www.uiltexas.org

512-471-5883

FEDERAL

INTERNAL REVENUE SERVICE (IRS)

www.irs.gov

1-800-829-1040

Tax Exempt Organizations

1-877-829-5500

Tax Forms and Publications

1-800-829-3676