

*SALES TAX*

A school district is not exempt from the provisions of the Sales Tax Law whenever it becomes the vendor of services or property ordinarily sold by private persons. Each faculty adviser should know which of the activities his organization undertakes are subject to sales tax and take steps to see that all sales tax information is accurately recorded and sent to the central treasurer. Below are selected events (not all inclusive) and their taxability status:

*Sales of Candy Bars*

Tax Law §1115 (a) (1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. However, the exemption does not apply to candy or sodas and soft and fruit drinks, which contain less than 70% natural fruit juice.

*Spaghetti Dinners*

Tax Law §1115 (a) (1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. However, the exemption does not apply to catered situations, where the students of the club would be serving, assisting in serving, cooking, or otherwise providing services with respect to the food item in question.

*Bake Sales*

Tax Law §1115 (a) (1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. This provision exempts bake sales from the collection of sales tax.

*Vending Machines Sales*

Where tables, chairs, benches, etc. are provided where the vending machine operations are conducted, the sales through the vending machine are taxable. Where no eating facilities are provided, the sales are exempt from NY sales tax.

*Food or Beverage in a Heated Space*

All sales of prepared food sold in a heated space (where the food is maintained at a temperature warmer than surrounding air temperature), such as pizza, barbecue chicken, popcorn, coffee, tea, etc. are subject to sales tax.

*Purchases of Prepared Food for Resale*

The purchase of the prepared food is subject to NY sales tax, and sales tax must be collected upon the subsequent resale. (Sales tax paid on initial purchase may be taken, as a credit against tax required to be collected upon subsequent resale).

*Admission Charges*

Exemption is provided from NY sales tax for admissions to dramatic or musical arts performances, which do not include variety shows, magic shows, circuses, ice shows, and similar performances. Included in the exemption is an admission charge to choreographed performances to music, which may exempt color guard admissions.

Admission charges for entertainment or amusement are taxable, such as social dances.

*Sale of Newspaper/Periodicals*

Exempt from NY sales tax.

*Sale of Yearbook*

Taxable under provisions of NY Tax Law, however if the entire cost of the yearbook is underwritten by the Board of Education, the sale of the yearbook becomes an exempt transaction. Advertising space sold in the yearbook is not taxable.

*Sweatshirt, T-shirt, Jacket Sales*

Tax Law §1115 (b) (5) provides that property purchased for resale is expressly excluded from NY sales tax (BUT ONLY IF A RESALE CERTIFICATE IS ISSUED TO VENDOR). Tax Law §1105 (a) provides that sales tax is imposed on the sale of tangible personal property.

When a student organization purchases merchandise for resale, vendors are required to collect the sales tax unless they receive a Resale Certificate (NYS Sales Tax Form ST-120) from the buyer.

Adopted: January 28, 2008